FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1412546-0

Total Deleted Page(s) = 1
Page 61 ~ Duplicate;

XXXXXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X
X For this Page X
XXXXXXXXXXXXXXXXXXXXXXX

# Memorandum

To : SAC, DIV II (196-0) Date 7/17/95

From : SA [redacted] (C-3) b6 b7C

Subject: [redacted]

~~FRAUD COMMITTED ON~~ Victim -
INKOMBANK, MOSCOW RUSSIA;
FBW; WF

The purpose of this memorandum is to outline information regarding a possible criminal investigation against [redacted] for various violations of the law. b6 b7C

[redacted] has victimized INKOMBANK, a joint stock bank located in Moscow, Russia. The law firm CHRISTY & VIENER, located at 620 Fifth Avenue, New York, New York, 10021, telephone number (212) 632-5500, has been hired by INKOMBANK to represent them in various legal procedures against [redacted] CHRISTY & VIENER has prepared a memorandum dated 12/3/94, outlining the fraud perpetrated by [redacted] against INKOMBANK. **See attachment Exhibit (A).**

The fraud that CHRISTY & VIENER alleges to have happened occurred from late 1992 through March of 1994. During this time [redacted] for INKOMBANK in a civil dispute with a bank, CITIBANK, in the US. Through this representation, [redacted] ingratiated himself with the various senior officers of INKOMBANK in Russia. Through willingness by the senior banking officials of INKOMBANK and possibly their naivete they began to invest in various brokerage accounts in the name of INKOMBANK in the United States. These brokerage accounts may have been for the benefit or partial of these senior banking officials. [redacted] controlled all these accounts. [redacted] appeared to have gained control of INKOMBANK's US accounts including the trading account at SMITH BARNEY SHEARSON and funneled proceeds from those bank accounts through various organizations he controlled including OMEGA, FIPM, and [redacted] b6 b7C

1, 2, 4

Q

O & R

[redacted]

Attachments
JHK:njs
(1)

196A-NY-255414-1

OPEN OR REOPEN CASE 196A-
ORIGIN NY DATE 8/10/95
SUPV. SECT. C-12
CLASS OR UNCLASS.

SEARCHED INDEXED
SERIALIZED FILED
JUL 17 1995
FBI — NEW YORK

One of the [redacted] frauds occurred at SMITH BARNEY, whereby he had INKOMBANK's accounts and funds therein transferred to accounts he controlled at SMITH BARNEY, specifically OMEGA and FIPM. One specific transaction occurred 2/9/94, in which approximately $1 million was transferred from INKOMBANK's account into OMEGA's account at REPUBLIC NATIONAL BANK OF NEW YORK, account number 250040921. It is alleged that after this transaction, the ultimate resting place of these funds were various foreign bank accounts. b6 b7C

In another [redacted] fraud which occurred at CHEMICAL BANK, on or about 2/24/94, there was an illegal transfer of $2.1 million from INKOMBANK's Hoverwood Account at CHEMICAL BANK to the law firm [redacted] b6 b7C

Several other high dollar amount transfers which [redacted] alleges's to be unauthorized, were in favor of companies which were ultimately controlled by [redacted] These transactions totalled approximately $1 million.

Another high dollar unauthorized transaction occurred in February 1994, whereby $2.5 million was transferred out of SMITH BARNEY into CHEMICAL in favor of FIPN. FIPN is another company controlled by [redacted] CHRISTY & VIENER's accountants have traced the money to five different entities, all of these transactions were done by [redacted] of OMEGA BROKERAGE SERVICES INC., [redacted] allegedly arranged for [redacted] b6 b7C

In addition, officers of the INKOMBANK who have been in contact with [redacted] of CHRISTY & VIENER, have alleged that many of the documents in [redacted] possession contain forged signatures of various INKOMBANK officials. Many of these forgeries further advanced [redacted] scheme. One of the questioned documents is a "General Power of Attorney" which was given by INKOMBANK to [redacted]

[redacted] telephone number [redacted] b6 b7C advised on 1/17/94 telephone call, that [redacted] had filed a response with a grievance committee regarding the complaint CHRISTY & VIENER had submitted on behalf of INKOMBANK on 11/17/94. [redacted] further alleged that [redacted] forged documents when he took the New York Bar Examination. [redacted] explained that in July 1989 testimony in New Jersey, [redacted] stated that he

had never had any legal education. However, in 1990 [redacted] supposedly passed the New York Bar. b6 b7C

[redacted] (Protect source) [redacted]

[redacted] b6 b7C b7D

A New York indices check reflects numerous hits on [redacted] has helped many immigrants in the Russian community obtain citizenship and is in active Russian community. Many [redacted] companies which include MR INTERNATIONAL, WORLD WIDE COMMUNICATIONS and SPARK & DUNN, have had several consumer fraud problems. b6 b7C

On 4/24/95, writer met with AUSA [redacted] SDNY, [redacted] regarding captioned. AUSA [redacted] had received the initial complaint from [redacted] in December of 1994. AUSA [redacted] was provided a [redacted] regarding captioned matter. During this meeting, AUSA [redacted] and writer, telephonically contacted [redacted] for an update in his investigation. b5 b6 b7C b7D

AUSA [redacted] advised that [redacted]

[redacted] b5 b6 b7C

On 6/23/95, AUSA [redacted] met with [redacted] regarding captioned matter. Writer was unable to attend this meeting due to a scheduling conflict. At this meeting AUSA [redacted] b5 b6 b7C b7D

[redacted] b5 b6 b7C b7D

On 6/29/95, AUSA [redacted] contacted writer and advised that he was assigned captioned matter. AUSA [redacted] was faxed a copy of [redacted]

On 7/11/95, SSA [redacted] Squad C-24, (Russian Organized Crime) contacted writer and advised that he had been called by [redacted] who is a FBI HQ Section Chief regarding criminal allegations against [redacted] b6 b7C b7D

It is recommended that captioned matter be referred to the Wire Fraud Squad (C-12).

The following information was obtained through review of FBI records and investigative checks regarding [redacted]

Name:
DOB:
SSAN:
POB:
Height:

Home Address:

Telephone Number:

Work Telephone Number: b6 b7C
Work Address:

Telephone Number:

Green Card Number:

Miscellaneous:

DOB:

Education:

EXHIBIT B

# Memorandum

To : SAC, NEWARK (209B-0) (0) Date 5/24/94

From : SA [redacted] (C-7)

b6
b7C

Subject: [redacted] RAMSEY CENTER, RAMSEY, NEW JERSEY, WOODRIDGE CENTER, WOODRIDGE, NEW JERSEY;
HCF
OO: NEWARK

[redacted] who asked to have his identity protected [redacted]

[redacted]

[redacted]

b6
b7C
b7D

[redacted]

1-Newark
RJM/rjm

[redacted]

b6
b7C
b7D

On May 20, 1994, [redacted] Investigator, BLUE CROSS/BLUE SHIELD, Newark, New Jersey, advised writer that his company investigated the subjects about five years ago and determined that BLUE CROSS/BLUE SHIELD was cheated out of about $60,000. He added that they had a good case, but did not take any action at the time because they were new at investigating fraud and seeking restitution or prosecution.

b6
b7C

Review of Newark general indices and foims revealed that First Name Unknown (FNU) [redacted] was listed in Newark File 92-5463, entitled "STRAND HOTEL, ATLANTIC CITY, NEW JERSEY; POSSIBLE INFILTRATION OF ORGANIZED CRIME INTO PROPOSED LEGALIZED CASINO GAMBLING IN THE STATE OF NEW JERSEY", as a person that frequents subject hotel and participates in high-stakes illegal card games. Review of Newark general indices and FOIMS revealed no information identifiable with other subjects or business names they used. Review of New York FOIMS revealed that [redacted] New York FOIMS was negative regarding the other listed subjects.

b6
b7C
b7E

On May 24, 1994, SA [redacted] Health Care Fraud Squad, FBI, New York, advised writer that she was not aware of any investigations by her office regarding captioned subjects.

b6
b7C

Writer recommends that a case not be opened on this subject at this time due to the time period that has elapsed since the alleged violations. Writer advised the [redacted] b6 b7C b7D

[redacted]

RICHARD A. ANDERMAN
ROBERT S. APPEL
STEVEN R. BERGER
JAMES S. BOYNTON
JOHN F. CAMBRIA
ANTHONY J. CARROLL
ARTHUR H. CHRISTY
L. DAVID CLARK, JR.
RUSSELL J. DASILVA
RICHARD M. ESTES
MARIA T. GALENO
WILLIAM F. GRAY, JR.
P. GREGORY HESS
L. ANTHONY JOSEPH, JR.
DAVID G. LEVERE
JEROME M. LEWINE
LAURENCE S. MARKOWITZ
JON J. MASTERS
WAYNE C. MATUS
RICHARD SALOMON
SALVATORE A. SANTORO
DANIEL J. SULLIVAN
KENNETH W. TABER
FRANKLIN B. VELIE
JOHN D. VIENER
KARON WALKER

CHRISTY & VIENER
620 FIFTH AVENUE
NEW YORK, NEW YORK 10020-2402
(212) 632-5500

FACSIMILE
(212) 632-5555

DIRECT DIAL NUMBER
(212) 632-5592

May 23, 1995

BY HAND

Special Agent [redacted]
Federal Bureau of Investigation
26 Federal Plaza
Squad C-3
New York, New York 10278

Re: Joint Stock Bank Inkombank [redacted]

Dear [redacted]

In connection with the above-referenced matter, I enclose a recent decision from a New Jersey Appellate Court which reinstated a jury verdict against [redacted] in connection with an alleged scheme to defaud a medical clinic. b6 b7C

Very truly yours,

[redacted]

cc: [redacted]

0055504.01

34902-017

NOT FOR PUBLICATION WITHOUT THE
APPROVAL OF THE APPELLATE DIVISION

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
A-2549-92T1

AMERICAN URGY MEDICAL CENTER, INC., AMERICAN URGY PHYSICIANS SERVICES, P.A., and [redacted]

Plaintiffs-Appellants
and Cross-Respondents,

v.

[redacted]

Defendants-Respondents
and Cross-Appellants,

and

[redacted] and NORTHERN MEDICAL CORP.,

Defendants.

---

[redacted]

Plaintiffs,

v.

[redacted] AMERICAN URGY MEDICAL CENTER, INC., and AMERICAN URGY PHYSICIANS SERVICES, P.A.,

Defendants.

---

AMERICAN URGY MEDICAL CENTER, INC., AMERICAN URGY PHYSICIANS SERVICES, P.A., and [redacted]

Plaintiffs,

A-2688-92T1

FILING DATE
APPELLATE DIVISION
MAY 12 1995
Clerk

RECEIVED
MAY 15 1995
C&V

b6
b7C

b6
b7C

v.

[redacted]

Defendants-Respondents,

and

[redacted]

b6
b7C

Defendants,

and

[redacted]

Defendant-Appellant.

---

Argued January 3, 1995 - Decided MAY 12 1995

Before Judges Havey, Brochin and Cuff.

On appeal from the Superior Court, Law Division, Bergen County.

[redacted] argued the cause on behalf of appellants/cross-respondents in A-2549-92T1 [redacted] of counsel and on the briefs).

[redacted] argued the cause on behalf of respondents/cross-appellants in A-2549-92T1 [redacted] submitted pro se briefs).

b6
b7C

[redacted] argued the cause on behalf of appellant in A-2688-92T1 [redacted] on the letter-briefs).

[redacted] argued the cause on behalf of respondents in A-2688-92T1 [redacted] submitted a pro se brief; [redacted] joined in the brief submitted by [redacted].

PER CURIAM

These back-to-back appeals and cross-appeals, consolidated

for the purpose of this opinion, arise out of two partnership agreements entered into among various doctors. [redacted] filed a complaint in the Chancery Division against [redacted] and his two business entities, American Urgy Medical Center, Inc. (AUMC), and American Urgy Physicians Services, P.A. (AUPS), alleging fraud in the inducement, diversion of partnership funds, unjust enrichment, conversion, breach of fiduciary duty, breach of contract, libel and slander, and intentional misrepresentation. [redacted] and the others sought rescission of the agreements, dissolution of the partnerships, the appointment of a receiver, an accounting, and damages.

[redacted] AUMC and AUPS filed their own Chancery Division complaint against [redacted] alleging wrongful expulsion from the partnerships, conversion, slander, libel, fraudulent inducement and wrongful use of trade names and service marks, and unfair competition.[1] [redacted] AUMC and AUPS sought damages, appointment of a receiver, an accounting and dissolution of the partnerships. An amended complaint named [redacted] as a defendant. [redacted] filed an answer and cross-claim against the remaining defendants.

Judge O'Halloran in the Chancery Division temporarily enjoined [redacted] and the other defendants in [redacted] case from endorsing or negotiating checks payable to [redacted] or his business

---

[1] [redacted] was named as a defendant solely to bring her within the court's jurisdiction.

entities. The judge thereafter, on May 3, 1988, appointed a receiver for the purpose of dissolving the two partnerships. The judge also restrained [redacted] group from disposing of any assets pending dissolution. b6 b7C

The matter was presumably transferred to the Law Division, although we find no transfer order in the record. After a protracted and acrimonious trial, the jury returned a verdict in favor of [redacted] in the aggregate amount of $964,160.35 against [redacted] and in favor of [redacted] against the two for $404,340. The jury found no cause of action on [redacted] affirmative claims against [redacted] Despite the fact that the jury also concluded that [redacted] was entitled to punitive damages against [redacted] the trial judge dismissed the jury without having it take additional testimony to decide what amount of punitive damages, if any, should be awarded. Thereafter, the judge, sua sponte, vacated the jury verdicts in their entirety based upon the misconduct of [redacted] attorney, and because the verdicts was against the weight of the evidence. b6 b7C

[redacted] now appeals, arguing: (1) the sua sponte vacation of the jury verdicts violated due process and fundamental fairness; (2) the verdict was not against the weight of the evidence; (3) the trial judge should have recused herself; (4) the alleged misconduct of [redacted] counsel did not warrant vacating the verdict; (5) the matter should be remanded on punitive damages against both [redacted] (6) the Appellate Division b6 b7C

should fix the fines for violations of the injunctions by [redacted] and [redacted] and (7) the trial judge made numerous erroneous rulings regarding partnership law and damages. [redacted] also appeals, arguing that the judge erred in sua sponte setting aside the verdict in her favor without notice or hearing.

b6
b7C

On [redacted] cross-appeal, he argues that: (1) the trial judge erred in excluding tapes, witness testimony and other evidence of [redacted] admissions and [redacted] and his attorney's suborning perjury; (2) the "outrageous conduct" by [redacted] confused and prejudiced the jurors thereby depriving [redacted] of a fair trial; (3) the "Pascack partnership issue" should not have been submitted to the jury because "there was not even an iota of evidence of improper action by [redacted] partners." In [redacted] cross-appeal, he argues that: (1) the charge was erroneous; (2) his motion for summary judgment should have been granted; and (3) the trial judge erred in allowing the jury to decide issues of law.

b6
b7C

The following facts were adduced during trial. In 1982, [redacted] began discussing creation of a medical practice partnership. [redacted] introduced [redacted] Ultimately, the three signed a $165,000 mortgage note with Midlantic Bank and chose a location for a medical center in Ramsey. Each partner invested $50,000 of their own money in the partnership which they called the Pascack Medical Center Associates (Pascack).

b6
b7C

The March 12, 1986 written partnership agreement was signed

by [redacted] not in his individual capacity, but as [redacted] of a separate entity known as American Urgy Medical Center, Inc. (AUMC). The agreement provided that the partnership was to engage in the business of managing ambulatory care facilities providing out-patient medical services on a walk-in, nonappointment basis. AUMC was to manage the day-to-day business of the partnership. However, the general management of the partnership business and assets was to be shared jointly by the partners. Each partner, owning one-third of the business, would be entitled to net profits, distributed as follows: fifty percent to AUMC and twenty-five percent to [redacted] respectively.

b6
b7C

AUMC was given the power to hire and fire nonphysician personnel, purchase supplies, contract for advertising, maintenance and repairs of the partnership property, and contract with all medical-service providers who were authorized to provide such services in New Jersey. The Pascack entity hired to provide the medical services was American Urgy Physicians Services (AUPS), a professional association owned and controlled by [redacted]

b6
b7C

The partnership was to continue in existence until dissolved pursuant to Paragraph Fourteen of the agreement. Pertinent is the provision dealing with expulsion which provides:

> If either individual partner is adjudged insane or incompetent, or becomes disabled to the extent that he is unable for a period of six (6) months to fulfill his obligations to the partnership as specified in this Agreement; or if the corporate partner (AUMC) is declared bankrupt by a court of competent jurisdiction or files a voluntary petition

seeking such a declaration, or makes an assignment for benefit of creditors, or is placed in receivership by a court of competent jurisdiction; or if any partner fails for any other reason to fulfill its obligations as specified herein, such partner may be expelled from membership in the partnership by a unanimous vote of all of the other partners, such expulsion to become effective after thirty (30) days notice of expulsion to such partner. The notice shall briefly state the grounds for the expulsion.

In the event of withdrawal, retirement or expulsion, the partnership was to continue in operation and existence. If the terminated partner was AUMC, then [redacted] individually were to have the option to purchase one-half of AUMC's interest. If the option was not exercised, the partnership was required to purchase AUMC's interest based on a value equivalent to the fair market value of the partnership assets, less the partnership liabilities, excluding good will.

b6
b7C

Paragraph Fifteen provided that the partnership was to be dissolved upon the termination of its specified undertaking or as a result of a unanimous vote of the partners. Upon dissolution, the partnership was to be liquidated and each partner was to receive an amount valued in accordance with his respective ownership interest.

The agreement also prohibited any parties from operating an "Urgy Center" or similar facility (except for an Urgy Center presently owned by a partner) within Bergen or Passaic Counties during the partnership and for five years after the partner leaves.

When the Pascack agreement was signed in March 1986, the

medical facility in Ramsey was still under construction. Because of unexpected problems, the partners were required to sign for an additional credit line of $45,000 with Midlantic, bringing their total liability to the bank to $210,000.

One of the doctors interviewed and hired by [redacted] for the Ramsey medical center was [redacted] advised [redacted] that because of favorable patient projections, they should open up another facility. [redacted] expressed an interest in investing in the new facility, as did [redacted] in his private medical practice in Fair Lawn. The Fair Lawn partnership called Fair Lawn Medical Center Associates (Fair Lawn) was created for the purpose of operating a medical facility in Wood Ridge. A new partnership agreement was signed on July 23, 1987 by [redacted] and AUMC.

b6
b7C

The Fair Lawn agreement was essentially the same as the Pascack agreement. Management services were to be provided by AUMC. Also, the initial capital contribution by each partner was $40,000 and each partner was to have a twenty-percent interest. However, profits were to be distributed with AUMC getting a forty-percent share which, according to [redacted] reflected AUMC's remuneration as the managing partner. The Fair Lawn partnership secured a loan for $190,000, for which the partners were jointly and severally liable.

Because all of the capital for the Pascack partnership had been depleted, [redacted] raised a question concerning the auditing

b6
b7C

of the partnership books. [redacted] were unhappy at this point and wanted an independent accountant to intercede. [redacted] contacted [redacted] who examined the books and the two partnership agreements. After his examination, [redacted] issued a report detailing several purported breaches of fiduciary duty committed by [redacted] and his companies. [redacted] thereupon hired an attorney and on February 18, 1988, gave [redacted] thirty days' notice of termination from the Pascack partnership. The letter also advised [redacted] that he was fired as [redacted]

b6
b7C

After [redacted] was expelled from the Pascack partnership, [redacted] organized a new medical practice, located at the same place as the old Pascack partnership in Ramsey. [redacted] acted as business advisor to the new practice.

[redacted] was also expelled from the Fair Lawn partnership. In early March 1988, [redacted] physically went to the Wood Ridge facility and a new medical practice was established at the location named [redacted] also provided advice for this new medical practice.

b6
b7C

It was [redacted] contention at trial that after [redacted] was terminated from both partnerships, [redacted] and his partners carried on "totally different" medical practices. With respect to the Pascack partnership, [redacted] maintained that he never competed in violation of the anti-competition clause in the partnership agreement, that he and [redacted] unanimously voted to expel [redacted] and that the newly created [redacted]

b6
b7C

[redacted] was not a continuation of Pascack because it was not even in the same business. In other words, according to [redacted] the new [redacted] business facility was a medical practice, whereas the Pascack partnership had been a business enterprise. [redacted] admitted that daily deposits from the new medical practices were sent to a New York City bookkeeper who had been hired by [redacted] had the power to sign checks and, according to [redacted] was not to share in the profits and he had no silent interest in the partnerships. Nevertheless, minutes of partnership meetings revealed that [redacted] held a fifty-three percent and sixty-percent interest in the new Ramsey and Wood Ridge partnerships respectively, the inference being that [redacted] was paying [redacted] from his percentage share of the profits. This inference was supported by the fact that in a pretrial certification [redacted] claimed that [redacted] indeed had a financial interest and that [redacted] had agreed to indemnify [redacted] for any default or claim against [redacted] arising from [redacted] negligence in rendering business advice to [redacted] [redacted] expert [redacted] an attorney, testified that the original Pascack and Fair Lawn partnership agreements violated N.J.A.C. 13:35-6.4(a)(1) (now repealed), because they established a professional association (AUMC) in partnership with doctors which were providing services to other doctors. Because the other doctors were giving portions of their gross income to AUMC, the partnership violated the regulation which precluded fee splitting. However, [redacted] admitted that he assumed AUPS

b6
b7C

b6
b7C

b6
b7C

collected the money from the patient billing and that five percent of gross income was a management fee which then went to AUMC. Moreover, AUPS, as a professional medical association, was entitled to receive medical fees; that is, if AUMC had entered into a contract with a professional association (even one controlled by [redacted]) to provide medical services, the arrangement would be valid. b6 b7C

[redacted] other expert, [redacted] an accountant, testified that [redacted] could never possibly receive any remuneration from the partnership as structured by the agreements, and that complete control of the partnership was vested in AUMC and AUPS. However, the expert admitted that he had no knowledge of the operation of the partnerships themselves, and that his conclusions were based solely on reading the agreements. He also admitted that a general partnership was free to choose one partner to be the managing partner. Under such an arrangement, if all expenses were legitimately paid, the other partners could still make money.

When [redacted] rested, the trial judge dismissed his fraudulent inducement claim against [redacted] leaving only an unjust enrichment claim against her. The judge also dismissed all of [redacted] claims against [redacted] except the claims of fraud in the inducement, unjust enrichment, breach of contract and breach of fiduciary duty. b6 b7C

In [redacted] case against [redacted] he testified that [redacted] initially approached him to create a partnership as a

means of sheltering money [redacted] was earning. When the partnership was created, [redacted] made it clear to [redacted] that the business was to be a nonmedical partnership, having nothing to do with the actual practice of medicine. [redacted] proposed that AUMC would be the managing partner which would then contract out for medical services. It was also agreed that AUPS, made up of doctors, would provide the medical treatment and collect medical fees. AUPS in turn would charge a percentage of the revenue for its services. b6 b7C

According to [redacted] AUMC was an on-going business having a familiar name in Bergen County with a reputation for expertise in the medical-management field. Under the Pascack arrangement, AUMC hired nonmedical personnel, purchased supplies and equipment and signed the leases. Anything purchased by AUMC was owned by the partnership. [redacted] testified that no income generated from the operation of the partnerships ever went into AUMC's account. Rather, all income from patients was deposited into the account of AUPS. [redacted] testified that [redacted] were aware that AUPS was collecting a five-percent fee on the gross revenue from the medical services. b6 b7C

According to [redacted] the Ramsey center had gross revenues for the period of June 1987 to February 1988 ranging from $12,000 to $35,250 per month, with the "break even point" being approximately $28,000 per month. [redacted] stated that every dime that came into the partnership was deposited in the bank. b6 b7C

[redacted] also testified that after [redacted] examined

the Pascack books in January 1988, [redacted] was locked out of the Ramsey center. He claimed that the equipment which [redacted] subsequently pledged to Independence Bank in March 1988 for his new medical venture was the same equipment which [redacted] had purchased for the partnerships. It was his opinion that the total value of the furniture and equipment was $64,445. According to an appraiser, the equipment at Ramsey had a fair market value of $52,194, and the equipment at Wood Ridge valued $48,815. All of the equipment was eventually sold at auction for $31,000.

[redacted] found out about [redacted] takeover of the Wood Ridge facility the morning it happened. The locks were changed and he was forced out. [redacted] testified she was working at Wood Ridge when [redacted] came in one evening and announced they were taking over. [redacted] was told to answer the phone "doctors' office." At the time of the takeover, Wood Ridge had revenues ranging from $8,000 to $18,000 per month. It was [redacted] view that Wood Ridge was on its way to making money, the break-even point being approximately $22,000 per month.

It was also [redacted] position that since, under the partnership agreement, he was to receive forty-percent of the profits at Wood Ridge, and fifty-percent of the profits at Ramsey, the only way he could have made money was by running a continuing profitable center. [redacted] theory was that because [redacted] and the others never gave the centers a chance to become

b6
b7C

b6
b7C

b6
b7C

profitable, [redacted] lost out in receiving future profits. [redacted] also claimed that because of [redacted] tortious actions, Midlantic Bank was able to obtain a judgment against [redacted] personally for $230,000. [redacted] also claimed that he was due receivables from Ramsey and Wood Ridge, based on what was owed in the month prior to the takeovers. [redacted] also established that the [redacted] Medical Practice deposited checks made payable to AUPS. [redacted] also claimed damages representing money advanced to the partnership for payroll and supplies, the rental value of equipment left at the two centers, and $12,000 in medical supplies.

b6
b7C

[redacted] in her case against [redacted] testified that when she entered into the Fair Lawn partnership she did so as an investor, not as a doctor. She stated that all of the partners understood that AUMC would be the managing partner. According to [redacted] in mid-February 1988, [redacted] called her and asked her to come to a partnership meeting. She declined because not all of the partners had been invited. The next day she found out that [redacted] had been expelled from his Ramsey office. On March 12, 1988, [redacted] called [redacted] and advised her that he, [redacted] had taken over the Wood Ridge facility as well. She refused [redacted] invitation to come and talk to defendants and thereafter hired a lawyer.

b6
b7C

Ultimately a judgment was obtained against [redacted] by Midlantic in the amount of $231,341.63 on the note signed by her and the other partners to the Fair Lawn business.

b6
b7C

She settled with the bank for $49,130.

[redacted] who appeared pro se, did not testify. Rather, he was permitted to read deposition testimony from one of the accountants who claimed that he was not sure if [redacted] had a "financial interest" in the medical centers. The accountant did know that [redacted] had no "ownership interest" in them because he was not a doctor. [redacted] also read from portions of [redacted] deposition, which essentially established that, as an employee of AUPS, [redacted] had treated approximately thirty-four patients a week and that [redacted] was adamant about surgical referrals being sent to him.

b6
b7C

At the close of all the evidence, the trial judge dismissed [redacted] claim of unjust enrichment against [redacted] As to [redacted] affirmative claim, the judge expressed her view that [redacted] had not been forced out of any partnership. According to the judge, [redacted] was nothing more than a withdrawing partner, but was entitled to be paid off for her share of the partnership debt.

b6
b7C

The trial judge also believed that there was nothing in the record demonstrating that [redacted] had acted because of [redacted] financial interest in the new medical practices. It was her view that [redacted] was nothing more than a business manager who gave advice to [redacted] and the other defendants. The judge also believed that because the partnerships had no termination date, they could be dissolved at any time and that an expert would have been needed to extrapolate what the profits at

b6
b7C

these centers would have been. Also, the trial judge would not allow the purported written agreement between AUPS and AUMC (which established AUPS's right to a five-percent service fee) admitted into evidence because, according to the judge, there was nothing in the record which established that any of the partners knew about the written agreement. She also expressed her view that AUPS' entitlement to the five percent may not even have been a jury question because no reasonable person could possibly believe that the other partners knew about the arrangement.

With regard to the tortious interference claim against [redacted] the judge believed that [redacted] had failed to prove the element of damages, and was prepared to rule as a matter of law that the partnerships could not make any money. The judge also concluded that if the partnerships were medical partnerships, they were void as a matter of law because one of the partners, AUMC, was not a doctor. Hence, there was nothing with which [redacted] could have tortiously interfered. Further, the judge believed that [redacted] could not have acted tortiously because he was simply acting under the direction of [redacted] Nevertheless, the judge allowed the tortious interference claim to go to the jury, noting that it could be revisited by her if the jury found in favor of [redacted]

b6
b7C

With respect to [redacted] claim for punitive damages, the trial judge kept reversing herself. She first stated that she would not charge any punitive damages because this was a "partnership" case and because there was no factual basis for it.

She later said there could be no punitive damages on the breach of contract or breach of fiduciary duty claims because they arose out of a contract. However, the judge later stated that there could be a punitive damage claim for tortious interference. She then held that punitive damages could be awarded against [redacted] only as to the fraud claim, but that she would not even mention punitive damages to the jury and that punitive damages could be argued after the verdict was announced.

The trial judge charged the jury on [redacted] claims against [redacted] for fraud in the inducement, breach of contract and breach of fiduciary duty. Despite the judge's above-described expression of doubt concerning the worth of [redacted] claims against [redacted] she also outlined their charges of breach of contract and breach of fiduciary duty, as well as their claims against [redacted] for tortious interference with contractual relations. The judge also outlined compensatory damages but did not relate the general principles to any specific claim against [redacted] claims against [redacted] Despite her precharge ruling to the contrary, she also discussed punitive damages with respect to the fraud and tortious interference claims. The jury was advised to decide whether, but not how much, punitive damages should be awarded.

b6
b7C

b6
b7C

In answers to twenty-eight interrogatories, the jury rejected all of [redacted] claims against [redacted] It also decided that [redacted] had disclosed that: (1) his company would receive a percentage of the gross revenues before the partnership

agreements were signed; (2) [redacted] failed to prove that [redacted] did not make the records of the partnerships available to [redacted] (3) and although the partnerships were nonmedical, they were capable of earning a profit from medical sources.

It also determined that: (1) [redacted] breached the Pascack partnership agreement when they expelled [redacted] from the Ramsey facility, for which breach [redacted] were entitled to $195,618.72; (2) [redacted] had used partnership property after February 19, 1988, for which [redacted] was entitled to $28,200; (3) [redacted] made profits at Ramsey following [redacted] expulsion: $30,000 from February 18 to March 18, 1988, and $60,000 from March 18 to May 3, 1988 (when the partnership was dissolved); (4) [redacted] had breached the Fair Lawn partnership agreement when they dissolved the Wood Ridge facility and forced [redacted] out of it, for which breach [redacted] were each entitled to $231,341.63; and (5) from March 11, to March 1, 1988, [redacted] made profits at Wood Ridge of $7,500, and from March 18 to May 3, 1988, they made an additional $45,000.

The jury also found that [redacted] used partnership equipment between March 1988 and March 1989 and that the partnership equipment which was sold at auction was worth $34,000 more than the amount received for it. For [redacted] failure to provide books and records of account to [redacted] between February 18 and May 3, 1988, [redacted] was entitled to $37,500 in damages for Ramsey and $20,000 for Wood Ridge.

As to [redacted] the jury found that [redacted] failed to prove that [redacted] was not a business consultant or manager, but that they did prove that his conduct was not justifiable and that [redacted] had wrongfully interfered with their prospects for profits arising from the partnership agreements. This interference had caused [redacted] harm for which [redacted] was awarded $173,000 and [redacted] $230,000. b6 b7C

With respect to punitive damages, the jury found that [redacted] conduct was so malicious, wanton, or reckless as to warrant punitive damages.

Finally, the jury determined that AUMC, as of the date of the defendants' takeovers, was entitled to $54,000 from Ramsey and $43,500 from Wood Ridge for supplies furnished or work performed. The trial judge thereupon asked the jury to decide one total figure due each to [redacted] The jury awarded [redacted] an aggregate damage award of $964,160.35 and [redacted] $404,341.63 The judge thereupon discharged the jury over [redacted] request that the jury stay to hear and decide the punitive damage amount question. b6 b7C

Immediately after the verdict, the trial judge expressed her willingness to entertain a motion to vacate or reduce the verdicts.

[redacted] moved for leave to appeal from the trial judge's discharge of the jury without submission to it of the punitive damage claim. [redacted] moved for a judgment notwithstanding the verdict, dismissal, new trial or remittitur. b6 b7C

Without notice or a hearing, the judge vacated the verdicts. In a written opinion, the judge explained she did so because of the multiple violations of Rules of Professional Conduct by [redacted] his refusal to comply with the Rules of Evidence and Procedure, and his misstatements of the law and evidence to the jury. As to the merits, the judge found that there was no basis for damages because the partnerships were at will, and therefore were subject to termination by any partner at any time. In any event, according to the judge, there was no proof that profits had been earned while the two medical facilities had been operated by [redacted] Consequently, even if the agreements had been breached by defendants, the only damage suffered by [redacted] was the requirement that they repay approximately $300,000 in bank loans. The judge thereupon returned to [redacted] conduct, reciting multiple incidents of misbehavior, failure to cite pertinent evidence rules and substantive law and his verbal abuse of the pro se defendants. Consequently, the judge vacated the jury verdicts because [redacted] had "so tainted the proceedings with scandalously outrageous behavior so as to demean every aspect of the proceeding and completely confuse and create havoc," the result of which was that the jury rendered the verdicts based on speculation.

b6
b7C

b6
b7C

I

We first address the trial judge's vacating of the verdicts based on [redacted] conduct. There is no question that [redacted] engaged in rude, unprofessional, and probably contemptuous

b6
b7C

behavior during the trial. The record is replete with regrettable, competitive dialogue between [redacted] and the trial judge in and outside the presence of the jury. There are also several instances of disrespectful responses by [redacted] to the judge's rulings. Most inexplicable is [redacted] constant interruption of the judge's jury instruction for such purposes as "correcting" the judge's misstatement of the law. The question of whether [redacted] conduct reached the level of contemptuous behavior is the subject of a companion appeal (A-2718-92T1). b6 b7C

However, we cannot say that [redacted] behavior supports the sua sponte vacating of the verdicts. See Henker v. Preybylowski, 216 N.J. Super. 513, 517-19 (App. Div. 1987) (new trial ordered where verdict rendered defective by taint of prejudice, partiality or passion, largely due to counsel's attacks on opposing litigants' character and morals). First, [redacted] own client, [redacted] should not have to pay so high a price for his lawyer's antics. More importantly, [redacted] should not pay such a price, particularly when her attorney, [redacted] behaved in a most professional manner at all times during the course of the trial. On this point, we reject [redacted] claim that [redacted] was participating with [redacted] in a "good cop - bad cop" scenario. If anything, [redacted] was the only voice of reason during a most difficult and tumultuous trial. b6 b7C

Further, we disagree with the trial judge's observations that [redacted] improperly misstated the law and evidence in his arguments in the presence of the jury. For example, the judge

was bothered that [redacted] tried to infer something pernicious from [redacted] interest in other, unrelated partnerships, and attempted to track [redacted] interest in the new medical partnerships following [redacted] expulsion. But [redacted] proofs and arguments were not improper. They were the very basis for [redacted] claim that what occurred here was not the natural dissolution of partnerships at will, but rather tortious breaches of [redacted] fiduciary obligations as a partner and his conspiracy with [redacted] in deliberately expelling [redacted] from the partnerships. [redacted] was seeking to demonstrate that the so-called new partnerships were nothing more than reconstituted versions of the original Pascack and Fair Lawn partnerships, minus [redacted] See Grato v. Grato, 272 N.J. Super. 140, 153-55 (App. Div.) (breach of fiduciary duty occurs where defendants usurp business of old corporation and proceed to operate it by and for themselves), certif. denied, 138 N.J. 264 (1994). For these reasons, [redacted] interests in the new partnerships were relevant to [redacted] case.

b6
b7C

b6
b7C

We also disagree with the judge's observation that [redacted] in his summation, "fabricated" the $7,000,000 he argued was earned by [redacted] new partnerships. It was the judge's view that there was no factual basis for such an argument. However, the $7,000,000 figure was fairly extrapolated from stipulated evidence showing that the average patient billing, after [redacted] expulsion, was $500, and from other evidence showing that the

b6
b7C

offices saw at least twenty-five patients per day. Moreover, the jury obviously rejected [redacted] argument on its face since it awarded [redacted] only $90,000 and $52,500 in lost profits from the two enterprises.

We are therefore satisfied that there was no basis for a sua sponte vacation of the verdicts based on [redacted] conduct. In b6 b7C answering each specific interrogatory as to liability, we are confident that the jury reached its verdicts in obedience to the jury instruction given on each theory of liability. Its findings are therefore entitled to deference.

II

We also find that there was no other basis in law to have disturbed the jury's liability verdict. See Dolson v. Anastasia, 55 N.J. 2 (1969).

Regrettably, the trial judge usurped the function of the jury when, post judgment, she made independent findings of fact on the respective claims. The jury found that [redacted] breached the partnership agreements and/or his fiduciary duty as a partner when he expelled [redacted] This finding was clearly based on a credibility determination by the jury which should not have been disturbed by the judge. Also, the trial judge kept insisting that because the partnerships were "at will," they could have been dissolved at any time. Even if this were true, b6 b7C it ignores the reality of what [redacted] established through their proofs: that they were wrongfully expelled from the partnerships and replaced with [redacted] a new silent partner.

For example, with regard to Pascack, [redacted] demonstrated that [redacted] and the others had no valid reason under the partnership agreement for expelling him, and that they even failed to give him the requisite thirty-days' notice before expulsion. With regard to the Wood Ridge facility, [redacted] and the others did not even have a unanimous vote, as required by the agreement, to expel [redacted]

b6
b7C

We are satisfied that the jury verdict may be sustained as a matter of law. Dissolution is distinguished from termination of a partnership. Despite dissolution, a partnership continues for the purpose of winding up partnership affairs. Insulation Corp. of America v. Berkowitz, 274 N.J. Super. 337, 344 (App. Div. 1994). Hence, dissolution affects future transactions, but as to all past transactions, the partnership continues until the transactions are completed. Scaglione v. St. Paul-Mercury Indem. Co., 28 N.J. 88, 102 (1958). The standard of duty owed by one partner to another is one of utmost good faith and loyalties, Stark v. Reingold, 18 N.J. 251, 261 (1955), and this fiduciary obligation remains until the relationship is terminated and the partnership affairs are wound up. Heller v. Hartz Mountain

---

[2]On this point, the trial judge insisted, over objection, on quoting large portions of the Uniform Partnership Law, N.J.S.A. 42:1-1 to -43, instead of referring to the parties' own written agreements. Some of the statutory provisions were relevant and others were not. Inexplicably, the judge barely referred to the agreements themselves, which defined the parameters of the parties' rights and duties, and kept insisting that partnerships can be dissolved at any time. Despite this charge, the jury rendered a verdict favorable to [redacted] on the issue of wrongful discharge.

b6
b7C

Indus., Inc., 270 N.J. Super. 143, 151 (Law Div. 1993).

Here, the jury could have reasonably found that what occurred was a wrongful expulsion, not a voluntary dissolution of an otherwise at-will partnership, and that [redacted] b6 b7C sustained damages as a result of that expulsion. That the partnerships may have ultimately been dissolved by court order should not alter that conclusion. [redacted] had no choice but to ask Judge O'Halloran in the Chancery Division to dissolve the partnerships so that he could salvage what he could of their assets and limit his future liability. See 68th St. Apartments, Inc. v. Lauricella, 142 N.J. Super. 546, 562-63 (Law Div. 1976), aff'd, 150 N.J. Super. 47 (App. Div. 1977).

We are satisfied that the sua sponte order vacating the liability verdict must be reversed.

III

The real problem we have is with the damage verdicts against [redacted] b6 b7C From the jury's answer to interrogatories, it is clear that it found that the two partnerships could lawfully earn profits from medical sources, through AUPS. In other words, AUPS would treat the patients, collect the money, and after paying itself a five percent fee and expenses, distribute the remainder to the "nonmedical" partnerships. On the evidence, the jury's determination on this point is unassailable.

The jury also found that [redacted] was entitled to $195,618.72 in damages for his expulsion from the Pascack partnership and $231,341.63 for his expulsion from the Fair Lawn partnership.

The jury also gave [redacted] $28,200 for [redacted] use of partnership supplies; $90,000 in lost profits earned by Pascack between February 18 and May 3, 1988; and $52,500 in lost profits earned by Fair Lawn from March 11 to May 3, 1988. The jury awarded [redacted] additional sums for partnership equipment, [redacted] b6 b7C failure to provide books and records and AUMC's $97,000.

On appeal, [redacted] contends that these damage awards are sustainable. He reasons that the $231,341.63 corresponds to the bank's judgment against him and his companies on the note for the Fair Lawn partnership. He claims that the $195,618.72 figure is comprised of an additional $94,000 included in the bank's judgment against him, supplies of $6,000, accounts receivable of $38,000, an unreimbursed security deposit of $12,000, money owed to AUMC of $40,000, initial capital of $6,200, as well as lost profits and counsel fees.

[redacted] b6 b7C is correct in arguing that he was not required to show what damages were due him with mathematical precision. Tessmar v Grosner, 23 N.J. 193, 203 (1957); Tannock v. New Jersey Bell Tel. Co., 223 N.J. Super. 1, 7 (App. Div. 1988). Nevertheless, the damage verdict appears to be confused, inconsistent and duplicative. Indeed, the evidence suggests that the jury may have considered some items that it should not have.

For example, an aggrieved partner is not entitled to costs of a receivership, since they are similar to litigation expenses. 68th St. Apartments, Inc., 142 N.J. Super. at 564-66. Also, it is questionable whether a party should be entitled to both the

expenditures made in preparation for performance or in part performance as well as loss of anticipated profits. Holt v. United Security Life Ins. & Trust Co., 76 N.J.L. 585, 595-99 (E. & A. 1909).

Moreover, many of the specific damage findings by the jury suggest double counting. For example, the $195,618.72 in damages for [redacted] expulsion from the Pascack partnership may or may not include the $28,200 awarded by the jury for use of partnership supplies and equipment. Similarly, the separate awards for money due AUMC from Ramsey ($54,000) and Wood Bridge ($43,500), appear unsustainable if the $195,618.72 award is upheld. The same is true regarding the separate awards of $37,500 (Ramsey) and $20,000 (Wood Ridge) representing damages resulting from [redacted] alleged failure to provide the books and records of the partnership. It is even questionable whether the additional awards for lost profits should be sustained, since it is difficult to say whether or not the jury included lost profits within its overall calculation of "breach of contract damages." Finally, [redacted] contends that the $195,618.72 award also included counsel fees. In our view, there was no legal basis for a finding that [redacted] should have paid for the cost of [redacted] litigation.

b6
b7C

We also have a sense of uncertainty concerning how the jury reached the figure of $231,341.63 in favor of [redacted] and against [redacted]

b6
b7C

We have considered the option of molding the verdicts and

reducing the aggregate award to [redacted] We have held that the Appellate Division may apply the remittitur technique when "common sense, fair play and expedition" merits such a course. Roland v. Brunswick Corp., 215 N.J. Super. 240, 245 (App. Div. 1987); see also, Fried v. Aftec, Inc., 246 N.J. Super. 245, 252 n.4 (App. Div. 1991). However, because of the uncertainty and confusion respecting the bottom line reached by the jury, we cannot with any degree of accuracy adjust the aggregate damage verdicts without usurping the jury's deliberative process. Hence, we conclude that a new trial on damages only against [redacted] is necessary. b6 b7C

IV

The compensatory damage verdict against [redacted] however, is sustainable. The jury clearly found that [redacted] wrongfully interfered with [redacted] prospects for profits within the partnership agreement. For that wrongful interference, [redacted] was awarded $173,000 and [redacted] $231,000. Although it is difficult to say exactly how the jury came up with these figures, we cannot say that they are so unsupported by the evidence as to show mistake, partiality, prejudice or passion. Baxter v. Fairmont, 74 N.J. 588, 596-98 (1977); Henker, 216 N.J. Super. at 517. The jury had before it the bank judgments against both [redacted] It also had evidence as to the number of patients seen at the two clinics each day, the average billings per patient, and [redacted] own estimate of the monthly break-even points. The jury could reasonably have concluded that, had it b6 b7C

not been for [redacted] tortious interference, [redacted] would have enjoyed these profits in the years to come.

V

We also agree with [redacted] that the trial judge erred in dismissing the jury without permitting it to fix the amount of punitive damages to be awarded against [redacted] However, we disagree with [redacted] contention that punitive damages were warranted as to [redacted]

b6
b7C

As to [redacted] the judge would not let punitive damages go to the jury against him because she believed that the claims he faced really sounded in contract, not in tort, and that they were not warranted as a matter of law. We agree. This case was not the rare exception where punitive damages are available in a breach of contract case. See Buckley v. Trenton Saving Fund Soc'y, 111 N.J. 355, 369-70 (1988); Ellmex Constr. Co., Inc. v. Republic Ins. Co., 202 N.J. Super. 195, 207-08 (App. Div. 1985), certif. denied, 103 N.J. 453 (1986). [redacted] actions were wrongful primarily based on the partnership agreements. Any breaches of fiduciary duty committed were essentially defined by those documents. Moreover, to the extent that he breached his fiduciary duty, we cannot say that his conduct was so unrelated to the breach of contract claim that punitive damages should have been assessed against him. Cf. Albright v. Burns, 206 N.J. Super. 625, 635-36 (App. Div. 1986) (while punitive damages may be awarded for violations of a fiduciary duty, usually some intentional wrongfulness, such as fraudulent misrepresentation,

b6
b7C

must be shown).

As to the punitive damages claim against [redacted] the trial judge charged the jury on the element of malice with respect to punitive damages, with the expectation that the amount of punitive damages would not be fixed until the jury first found that [redacted] was entitled to them. [redacted] contends that, by finding [redacted] acted with malice, the jury indicated its decision to award [redacted] punitive damages, and thus the trial judge erred in discharging the jury before it addressed the amount of punitive damages to be awarded. We agree. b6 b7C

To warrant a punitive damages award, plaintiff must prove that the defendant's conduct was wantonly reckless or malicious or that there was an intentional wrongdoing in the sense of an evil-minded act, or an act accompanied by wanton and willful disregard of the rights of another. Nappe v. Anschelewitz, Barr, Ansell & Bonello, 97 N.J. 37, 49 (1984). Here, it is difficult to distinguish between that malice necessary to sustain an award of punitive damages, and the malice necessary to prove a claim in the first instance of tortious interference with prospective economic advantage. See Printing Mart-Morristown v. Sharp. Elecs. Corp., 116 N.J. 739, 757 (1989) (conduct of wrongdoer must be such that it transgresses generally accepted standards of common morality or is not sanctioned by the rules of the game).

Nevertheless, once the jury found that [redacted] established that [redacted] conduct was "so malicious, wanton or reckless as to warrant punitive damages," a second proceeding b6 b7C

should have been conducted at which time the trier of fact would have determined the amount of those damages. At the separate proceeding, evidence such as defendant's financial condition may be proffered. Herman v. Sunshine Chemical Specialties, Inc., 133 N.J. 329, 343-44 (1993). In view of the jury's determination, we have no choice but to remand for a finding by a jury as to the amount of punitive damages that should be awarded.

VI

[redacted] also contends that the trial judge erred in failing to impose fines for defendant's violations of the injunctions entered by Judge O'Halloran. We find the contention clearly without merit. R. 2:11-3(e)(1)(E). We decline to address [redacted] remaining points, since they may be argued, if pertinent, at the new trial as to damages against [redacted] b6 b7C

VI

On [redacted] cross-appeal, he argues that the jury instruction on tortious interference was prejudicial because it failed to tell the jury that his interference could have been justified if done in the exercise of an equal or superior right, or that his conduct could be justified because the jury found that [redacted] failed to prove that he was not a business consultant. b6 b7C

As to the second point, we believe that it was totally irrelevant whether the jury found that [redacted] was or was not a business consultant. His title was not significant here, only his conduct.

With respect to [redacted] first point, we note that the trial judge did charge the jury on the elements of a claim for unlawful interference with contractual relations or prospective advantage. She explained that there had to be the existence of a reasonable expectation of economic advantage; that [redacted] had to have knowledge of that expectancy; that he willfully and without justification interfered with that expectancy; in the absence of that wrongful conduct [redacted] would probably have realized economic advantage; and damages were sustained by them. While the judge did not instruct the jury that it was a defense if [redacted] had acted in the exercise of an equal or superior right, the omission was not fatal. There was no evidence that [redacted] had an "equal or superior right" to expel [redacted] from the partnership. Also, the gist of the cause of action was conveyed to the jury. The judge also explained that the ultimate inquiry was whether [redacted] had unjustifiably interfered with [redacted] fair opportunity to conduct legitimate business affairs. The jury instruction as a whole was consistent with principles pronounced in Printing Mart-Morristown, 116 N.J. at 750-72; see also, Harris v. Perl, 41 N.J. 455, 462 (1964). The evidence against [redacted] supports the finding by the jury that [redacted] satisfied each of the elements of their tortious interference claim.

b6
b7C

b6
b7C

b6
b7C

[redacted] argument that his motion for summary judgment should have been granted is meritless, R. 2:11-3(e)(1)(E), as is his claim that the trial judge erred in allowing the jury to

decide issues which he describes as questions of law.

We also conclude that [redacted] contentions set forth in is cross-appeal are without merit. R. 2:11-3(e)(1)(E).

The post-judgment order vacating the jury verdicts as to liability against [redacted] is reversed, and those liability verdicts are reinstated. We affirm the order for a new trial as to damages in favor of [redacted] and remand for a new trial on damages only. The liability and compensatory damage verdicts against [redacted] are affirmed. We remand for a trial for the fixing of punitive damages, if any, against him. All outstanding issues as to compensatory and punitive damages shall be addressed in a single jury trial.

b6
b7C

Affirmed in part; reversed in part.

RICHARD A. ANDERMAN
ROBERT S. APPEL
STEVEN R. BERGER
JAMES S. BOYNTON
JOHN F. CAMBRIA
ANTHONY J. CARROLL
ARTHUR H. CHRISTY
L. DAVID CLARK, JR.
RUSSELL J. DASILVA
RICHARD M. ESTES
MARIA T. GALENO
WILLIAM F. GRAY, JR.
P. GREGORY HESS
L. ANTHONY JOSEPH, JR.
DAVID G. LEVERE
JEROME M. LEWINE
LAURENCE S. MARKOWITZ
JON J. MASTERS
WAYNE C. MATUS
RICHARD SALOMON
SALVATORE A. SANTORO
DANIEL J. SULLIVAN
KENNETH W. TABER
FRANKLIN B. VELIE
JOHN D. VIENER
KARON WALKER

# CHRISTY & VIENER

620 FIFTH AVENUE
NEW YORK, NEW YORK 10020-2402
(212) 632-5500

FACSIMILE
(212) 632-5555

DIRECT DIAL NUMBER
(212) 632-5592

April 24, 1995

**BY HAND**
S/A [redacted]
FBI
26 Federal Plaza
Squad C-3
New York, New York 10007

b6
b7C

Re: Joint Stock Bank Inkombank [redacted]

Dear [redacted]

[redacted] asked that I forward to you the enclosed documents in connection with your investigation of the [redacted] matter. The loose-leaf photocopied piece of paper represents the trail that some of the stolen money took after it left Smith Barney Shearson.

b6
b7C

I have also attached the two complaints which [redacted] initiated in New York State Court. The first complaint (the one in which Aleri Services, Inc. and FIPM are plaintiffs) was filed in December 1994; we have moved to dismiss this complaint and the motion is currently pending before the judge. The second complaint was filed only last week and names [redacted] and FIPM as plaintiffs.

Finally, I enclose [redacted] answer to the counterclaims and the cross-claims and third-party complaint that he included in the same set of papers. Significantly, at page seven, paragraph 46, [redacted] admits Inkombank's allegation that $2.18 million was transferred from the Chemical Bank account to [redacted]

I understand that these related cases have already grown quite confusing -- please feel free to call me at any time to discuss these matters.

b6
b7C

Very truly yours,

[redacted]

cc: [redacted]

# United States District Court

SOUTHERN DISTRICT OF NEW YORK

[redacted]

SUMMONS IN A CIVIL ACTION

V.

CASE NUMBER: 95 Civ. 0796 (KTD)

JOINT STOCK BANK INKOMBANK, et als,
(see attached list
for full caption)

CONFORMED COPY
APR 10 1995
USDC SD

b6
b7C

TO: (Name and Address of Defendant)

[redacted]

Christy & Viener
620 Fifth Avenue
New York, NY 10020

(see attached)

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court and serve upon

PLAINTIFF'S ATTORNEY (name and address)

[redacted] pro se

b6
b7C

New York, NY 10001

cross-claim and third party complaint

an answer to the ~~complaint~~ which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the ~~complaint~~ cross-claim and third party complaint.

CLERK

DATE

BY DEPUTY CLERK

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

[redacted]

Plaintiff,

- against -

Joint Stock Bank INKOMBANK, [redacted]

Defendants.

---

Joint Stock Bank Inkombank,

Counterclaim Plaintiff,

- against -

[redacted]

Counterclaim Defendant,

- and -

[redacted] Omega Brokerage Services, Inc., Foreign Investors Portfolio Management, Inc., [redacted] and John Does 1-10,

Additional Counterclaim Defendants.

---

[redacted]

Third Party Plaintiff ,

- against -

[redacted]

Cross-Claim Defendants,

- and-

Kudos Holdings, Ltd., f/k/a Kudos Investments, Ltd., Inwesta Establishment, a/k/a "Vestina", [redacted] Christy & Viener, First Ten, S.A., Walesdon Financial Company, Laurel Finance, Ltd., Aspiration Holdings, Ltd., Linkvale, Ltd., Prontoservus, Ltd., Manitesser Co. Ltd., [redacted] Adviso Trust Co. Ltd., Savser Management, Ltd., Nashua Trading Corp., [redacted] InkomCapital, Ltd. a/k/a Alpha Consulting Group, Ltd., and John Does 11-20,

Third Party Defendants.

Case No. 95 Civ. 0796 (KTD)

ANSWER, CROSS-CLAIM AND THIRD PARTY COMPLAINT

b6
b7C

b6
b7C

b6
b7C

SERVICE LIST

TO: Cross-Claim Defendants:

[redacted] b6 b7C

c/o Christy & Viener
620 Fifth Ave,
New York, NY 10020

TO: Third Party Defendants:

[redacted]

c/o Christy & Viener
620 Fifth Ave,
New York, NY 10020

[redacted] b6 b7C

c/o Christy & Viener
620 Fifth Ave,
New York, NY 10020

[redacted]

c/o Christy & Viener
620 Fifth Ave,
New York, NY 10020

Law firm of Christy & Viener
Christy & Viener
620 Fifth Ave,
New York, NY 10020

Kudos Holdings, Ltd., f/k/a Kudos Investments, Ltd., Inwesta Establishment, a/k/a "Vestina", First Ten, S.A., Walesdon Financial Company, Laurel Finance, Ltd., Aspiration Holdings, Ltd., Linkvale, Ltd., Prontoservus, Ltd., Manitesser Co. Ltd., [redacted] Adviso Trust Co. Ltd., Savser Management, Ltd., Nashua Trading Corp., [redacted] b6 b7C [redacted] InkomCapital, Ltd. a/k/a Alpha Consulting Group, Ltd., and John Does 11-20,
c/o Christy & Viener
620 Fifth Ave,
New York, NY 10020

ANSWER TO THE FIRST AMENDED COUNTERCLAIM

[redacted] captioned as "additional counterclaim defendant" (hereinafter referred to as [redacted] or "Third Party Plaintiff"), appearing pro se, as and for the answer to the first amended counterclaim ("Counterclaim") respectfully alleges as follows:

b6
b7C

I. Denies any and all allegations of liability to defendant Joint Stock Bank Inkombank ("Inkombank") on the part of third party plaintiff.

II. Denies any and all allegations of wrongdoing on the part of third party plaintiff.

III. As and for the specific answers respectfully alleges as follows:

ANSWER TO THE SECTION OF COUNTERCLAIM: JURISDICTION AND VENUE

1. Denies the allegations contained in para 1 of the counterclaim.

2. Denies the allegations contained in para 2 of the counterclaim.

ANSWER TO THE SECTION OF COUNTERCLAIM: THE PARTIES

3. Upon information and belief, admits the allegations contained in para 3 of the counterclaim.

4. Admits the allegations contained in para 4 of the counterclaim, except, upon information and belief, denies that plaintiff was responsible, for establishing and overseeing Inkombank's United banking operations.

5. Admits the allegations contained in para 5 of the counterclaim.

6. Admits the allegations contained in para 6 of the counterclaim.

7. Denies the allegations contained in para 7 of the counterclaim, except admits the portions alleging (a) [redacted] offices are located at [redacted] New York, NY, which is the same building as [redacted] where [redacted] maintains an office", (b) [redacted] and (c) upon information and belief, admits that "Inkombank knows of no formal connection between [redacted] and that (d) upon information and belief, admits that [redacted] is a law firm which maintains an address a [redacted]

b6
b7C

8. Denies the allegations contained in para 8 of the counterclaim, except, upon information and belief, admits that [redacted] residing in New York and, upon information and belief, is or was Omega's [redacted]

9. Upon information and belief, denies the allegations contained in para 9 of the counterclaim, except, upon information and belief, admits that [redacted] at one time was a [redacted] of FIPM.

b6
b7C

10. Denies the allegations contained in para 10 of the counterclaim, except, upon information and belief, admits that Omega Brokerage Service is a Marshall Islands corporation, having the addresses as set forth in the counterclaim.

11. Denies the allegations contained in para 11 of the counterclaim, except, upon information and belief, admits that FIPM is a Marshall Islands corporation, having the addresses as set forth in the counterclaim.

12. State that third party plaintiff has no knowledge sufficient to admit or deny the allegations contained in para 12 of the counterclaim.

ANSWER TO THE SECTION OF COUNTERCLAIM: NATURE OF THE ACTION

13. Denies the allegations contained in para 13 of the counterclaim.

14. Denies the allegations contained in para 14 of the counterclaim.

ANSWER TO THE SECTION OF COUNTERCLAIM: FACTUAL ALLEGATIONS

15. Upon information and belief, admits that Inkombank is now one of Russia's largest banks, and states that third party plaintiff has no knowledge sufficient to admit or to deny the other allegations contained in para 15.

16. Upon information and belief, denies the allegations contained in para 16 of the counterclaim.

17. Upon information and belief, denies the allegations contained in para 17 of the counterclaim, except, upon information and belief, admits that plaintiff [redacted] represented defendant Inkombank in an action against Citibank.

b6
b7C

18. Upon information and belief, denies the allegations contained in para 18 of the counterclaim.

19. Upon information and belief, denies the allegations contained in para 19 of the counterclaim.

20. States that third party plaintiff has no knowledge sufficient to admit or deny the allegation contained in para 20.

21. States that third party plaintiff has no knowledge sufficient to admit or deny the allegation contained in para 21.

22. Upon information and belief, denies the allegations contained in para 22 of the counterclaim.

23. Upon information and belief, denies the allegations contained in para 23 of the counterclaim.

24. Upon information and belief, denies the allegations contained in para 24 of the counterclaim.

25. Denies the allegations contained in para 25 of the counterclaim.

26. Upon information and belief, denies the allegations contained in para 26 of the counterclaim.

27. Denies the allegations contained in para 27 of the counterclaim.

28. Upon information and belief, denies the allegations contained in para 28 of the counterclaim.

29. States that third party plaintiff does not have knowledge sufficient to admit or deny the allegations contained in para 29 of the counterclaim, except, upon information and belief, denies the portion "Hoverwood Limited is a wholly-owned subsidiary of Inkombank"

30. Denies the allegations contained in para 30 of the counterclaim, and/or has no knowledge sufficient to admit or deny the allegations, except, upon information and belief, admits that Omega and FIPM maintained accounts at Smith Barney Shearson.

31. Denies the allegations contained in para 31 of the counterclaim.

32. Denies the allegations contained in para 32 of the counterclaim.

33. Denies the allegations contained in para 33 of the counterclaim.

34. Denies the allegations contained in para 34 of the counterclaim.

35. Denies the allegations contained in para 36 of the counterclaim, except states that third party plaintiff does not have sufficient knowledge to properly respond to the alleged transfer.

36. Denies the allegations contained in para 36 of the counterclaim.

37. Upon information and belief, denies the allegations contained in para 37 of the counterclaim.

38. Upon information and belief, denies the allegations contained in para 38 of the counterclaim.

39. Upon information and belief, denies the allegations contained in para 39 of the counterclaim, except states, that third party plaintiff may not properly respond to the portion alleging that [redacted] authorized the transfer to Chemical Bank in a letter to [redacted] dated February 7, 1994" until discovery is had to determine that defendant Inkombank's alleged knowledge is not obtained by unlawful and/or fraudulent means. b6 b7C

40. Upon information and belief, denies the allegations contained in para 40 of the counterclaim.

41. States that third party plaintiff does not have knowledge sufficient to admit or deny the allegations contained in para 41 of the counterclaim.

42. Denies the allegations contained in para 42 of the counterclaim.

43. Upon information and belief, denies the allegations contained in para 43 of

the counterclaim except, upon information and belief, admits that defendant made false complaints against plaintiff and third party plaintiffs.

44. Allegations contained in para 44 of the counterclaim, refer to plaintiff's state of mind and require no response.

45. State that third party plaintiff has no sufficient knowledge to respond to the allegations para 45 of the counterclaim, except states that the portion of the allegations pertaining to "female operatives", or "operatives" is improper as to the form and, thus, requires no answer, and further states, that third party plaintiff and, upon information and belief, plaintiff has no "female operatives"payroll positions, hence, third party plaintiff is not aware who defendant Inkombank purports to refer to.

46. Denies the allegations contained in para 46 of the counterclaim, except admits that the transfer to [redacted] occurred. b6 b7C

47. Denies allegations contained in para 47 of the counterclaim.

ANSWER TO THE SECTION OF COUNTERCLAIM: THE FIRST CAUSE OF ACTION: Common Law Fraud/Aiding and Abetting Fraud

48. Third party plaintiff repeats and realleges as if fully set forth herein the answers contained in the foregoing paragraphs.

49. Admits the allegations contained in para 49 of the counterclaim, except states, that plaintiff had duty of loyalty to defendant Inkombank at the time it was a legitimate commercial entity, not to the group which corrupted it and turned it into an unlawful enterprise.

50. Upon information and belief, denies the allegations contained in para 50 of

the counterclaim, except, upon information and belief, states that [redacted] has no sufficient knowledge to respond to the allegations pertaining to plaintiff's representations with regard to his state of mind. b6 b7C

51. Upon information and belief, denies the allegations contained in para 51 of the counterclaim, except, upon information and belief, states that third party plaintiff has no sufficient knowledge to respond to the allegations pertaining to plaintiff's representations with regard to his state of mind.

52. States that third party plaintiff has no sufficient information to respond to the allegations of para. 52 of the counterclaim (if any), except states that the portion of the allegations pertaining to [redacted]operatives", or "operatives" is improper as to the form and, thus, requires no answer, and further states, that third party plaintiff and, upon information and belief, plaintiff has no "operative" payroll positions, hence, third party plaintiff is not aware who defendant Inkombank purports to refer to. b6 b7C

53. Denies the allegations of any wrongdoing contained in para 53 of the counterclaim (if any).

54. Upon information and belief, denies the allegations contained in para 54 of the counterclaim.

ANSWER TO THE SECTION OF COUNTERCLAIM: THE SECOND CAUSE OFACTION: Conversion

55. Third party plaintiff repeats and realleges the answers contained in the foregoing paragraphs as if set forth fully herein.

56. Denies the allegations contained in para 56 of the counterclaim.

57. Denies the allegations contained in para 57 except admits that certain improper demands for money were made by defendant Inkombank.

58. Denies the allegations contained in para 58 of the counterclaim.

59. Denies the allegations contained in para 59 of the counterclaim.

ANSWER TO THE SECTION OF COUNTERCLAIM: THE THIRD CAUSE OF ACTION: Unjust Enrichment.

60. [redacted] repeats and realleges the answers contained in the foregoing paragraphs as if fully set forth herein. b6 b7C

61. Denies the allegations contained in para 61 of the counterclaim.

62. Denies the allegations contained in para 62 of the counterclaim.

63. Denies the allegations contained in para 62 of the counterclaim.

64. Denies the allegations contained in para 64 of the counterclaim.

ANSWER TO THE SECTION OF COUNTERCLAIM: THE FOURTH CAUSE OF ACTION: Money had and received

65. Third party plaintiff repeats and realleges the answers contained in the foregoing paragraphs as though fully set forth herein.

66. Denies the allegations contained in para 66 of the counterclaim.

67. Denies the allegations contained in para 67 of the counterclaim.

ANSWER TO THE SECTION OF COUNTERCLAIM: THE FIFTH CAUSE OF ACTION: Constructive Trust.

68. Third party plaintiffs repeat and reallege the allegations contained in the foregoing paragraphs as though fully set forth herein.

69 - 71. Denies the allegations contained in paras 69-71 of the counterclaim.

ANSWER TO THE SECTION OF COUNTERCLAIM: THE SIXTH CAUSE OF ACTION: Breach of Fiduciary Duty /Aiding and Abetting Said Breach.

72. Third party plaintiff repeats and realleges the allegations contained in the foregoing paragraphs as though fully set forth herein.

73. Admits the allegations contained in para 73 of the counterclaim, except states, that plaintiff had duty of loyalty to defendant Inkombank at the time it was a legitimate commercial entity, not to the group which corrupted it and turned it into an unlawful enterprise.

74 - 76. Denies the allegations contained in paras 74-76 of the counterclaim.

ANSWER TO THE SECTION OF COUNTERCLAIM:
THE SEVENTH CAUSE OF ACTION: Legal malpractice.

77. Third party plaintiff repeats and realleges the allegations contained in the foregoing paragraphs as though fully set forth herein.

78. Admits the allegations contained in para 78 of the counterclaim, except states, that plaintiff had the duty of loyalty to defendant Inkombank at the time it was a

legitimate commercial entity, not to the group which corrupted it and turned it into an unlawful enterprise.

79 - 80. Upon information and belief, denies the allegations contained in paras 79-80 of the counterclaim.

ANSWER TO THE SECTION OF COUNTERCLAIM: THE EIGHTH CAUSE OF ACTION: RICO, 18 U.S.C. Section 1962(a).

81. Third party plaintiff repeats and realleges he allegations contained in the foregoing paragraphs as if set forth fully herein.

82 - 101. The allegations in paras 82-101 contain conclusions of law requiring no answer with the exception of any and all allegations of wrongdoing or liabilities to Inkombank which are denied; except third party plaintiff admits sending a letter to defendant [redacted] denying that Inkombank was defrauded and indicating that Inkombank is indebted to the clients of [redacted] and, further, states that third party plaintiff does not have sufficient knowledge to respond to the rest of specific instances.

b6
b7C

ANSWER TO THE SECTION OF COUNTERCLAIM: THE NINTH CAUSE OF ACTION: RICO, 18 U.S.C. Section 1962(b).

102. Third party plaintiff repeats and realleges the allegations contained in the foregoing paragraphs as if set forth fully herein.

103 - 121. The allegations in paras 100-121 contain conclusions of law requiring no answer with the exceptions of any allegations of wrongdoing or liabilities to Inkombank which are denied.

ANSWER TO THE SECTION OF COUNTERCLAIM: THE TENTH CAUSE OF ACTION: RICO, 18 U.S.C. Section 1962(c).

122. Third party plaintiff repeats and realleges the allegations contained in the foregoing paragraphs as if set forth fully herein.

123 - 149. The allegations in paras 100-121 contain conclusions of law requiring no answer with the exceptions of any allegations of wrongdoing or liabilities to Inkombank which are denied.

ANSWER TO THE SECTION OF COUNTERCLAIM: THE ELEVENTH CAUSE OF ACTION: RICO, 18 U.S.C. Section 1962(d).

150. Third party plaintiff repeats and reallege the allegations contained in the foregoing paragraphs as if set forth fully herein.

151 - 153. The allegations in paras 151-153 contain conclusions of law requiring no answer with the exceptions of any allegations of wrongdoing or liabilities to Inkombank which are denied.

ANSWER TO THE SECTION OF COUNTERCLAIM: THE TWELFTH CAUSE OF ACTION: Section 487 of the New York State Judiciary Law.

154. Third party plaintiff repeats and realleges the allegations contained in the foregoing paragraphs as though fully set forth herein.

155 - 158. Denies the allegations contained in paras 155-158 of the counterclaim except admits that [redacted] was retained by Inkombank to act as [redacted] [redacted] are licensed to practice law in the b6 b7C

State of New York.

FIRST AFFIRMATIVE DEFENSE

159. Defendant Inkombank failed to acquire jurisdiction over the third party plaintiff.

SECOND AFFIRMATIVE DEFENSE

160. The counterclaim is barred by the doctrine of accord and satisfaction and, further, barred by agreements between the parties.

THIRD AFFIRMATIVE DEFENSE

161. The counterclaim is barred by reason of Inkombank's, its officers', employees', offshore companies-subsidiaries', agents and attorneys' unclean hands.

FOURTH AFFIRMATIVE DEFENSE

162. The counterclaim fails to state a claim upon which relief can be granted.

FIFTH AFFIRMATIVE DEFENSE

163. The counterclaim is barred by the doctrines of waiver and estoppel.

SIXTH AFFIRMATIVE DEFENSE

164. The counterclaim is barred by reason that the sole and proximate cause of defendant's damages, if any, was the illegal conduct of its defendant officers and their counsel Christy & Viener, not of the answering "additional counterclaim defendant", and respectfully refers to the annexed cross-claim and third party complaint.

SEVENTH AFFIRMATIVE DEFENSE

165. The action involving substantially same issues and parties is currently pending in the Supreme Court of the State of New York.

EIGHTH AFFIRMATIVE DEFENSE

166. Defendant Inkombank failed to implead necessary and indispensable parties.

NINTH AFFIRMATIVE DEFENSE

167. Christy & Viener may not act as attorneys against "additional counterclaim defendant" [redacted] because Christy & Viener were attorneys for [redacted] in the matter substantially related to the within controversy. b6 b7C

TENTH AFFIRMATIVE DEFENSE

168. The counterclaim is barred because the action was brought in bad faith to obtain object not intended by law.

ELEVENTH AFFIRMATIVE DEFENSE

169. The counterclaim is barred, in whole or in part, by applicable statutes of limitations.

TWELFTH AFFIRMATIVE DEFENSE

170. Defendant Inkombank's officers and their counsel lack legal capacity to sue on behalf of Inkombank.

THIRTEENTH AFFIRMATIVE DEFENSE

171. Counterclaim is barred because the information used in framing the latter has been obtained by unlawful means.

CROSS-CLAIM AND THIRD PARTY COMPLAINT

[redacted] attorney duly admitted to practice in the State of New York, appearing pro se, as and for his Cross-Claims, pursuant to Rule 13 of the Federal Rules of Civil Procedure, against [redacted] b6 b7C

[redacted] b6 b7C

[redacted] (collectively "Cross-Claim Defendants" or "Defendant Officers" ), and as and for his Third Party Complaint, pursuant to Rule 14 of the Federal Rules of Civil Procedure, against Kudos Holdings, Ltd., f/k/a Kudos Investments, Ltd., Inwesta Establishment, a/k/a "Vestina", [redacted] Christy & Viener, (collectively "Christy & Viener"), First Ten, S.A., Walesdon Financial Company, Laurel Finance, Ltd., Aspiration Holdings, Ltd., Linkvale, Ltd., Prontoservus, Ltd., Manitesser Co. Ltd., [redacted] b6 b7C Adviso Trust Co. Ltd., Savser Management, Ltd., Nashua Trading Corp., [redacted] InkomCapital, Ltd. a/k/a Alpha Consulting Group, Ltd., and John Does 11-20 ("Collectively "Third Party plaintiffs"), respectfully alleges as follows:

1. Defendant Joint Stock Bank Inkombank ("Inkombank") has filed against original plaintiff [redacted] b6 b7C Omega Brokerage Services, Inc., Foreign Investors Portfolio Management, Inc., [redacted] and John Does 1-10, captioned as "Additional Counterclaim Defendants", the First Amended Counterclaim a copy of which is attached hereto as "Exhibit 1".

2. Third party plaintiff respectfully files this cross-claim and third party complaint against cross-claim defendants and third party defendants for indemnity upon

the following grounds:

PARTIES

3. Defendant Counterclaimant Joint-Stock Bank Inkombank ("Defendant Inkombank") is a Russian joint stock company licensed as a commercial bank in the Russian Federation. While originally, upon information and belief, operating as a legitimate commercial entity, currently defendant Inkombank is (as are virtually all Russian banks) in the midst of a severe internal power struggle fueled by various Russian mob factions and certain corrupt Russian Government officials.

4. Crossclaim defendants ("Defendant Officers"), all of whom are Russian residents, constitute collectively a management faction which currently controls defendant Inkombank and acts in concert with one another and with the third party defendants to obstruct the inquiry into financial improprieties in defendant Inkombank, conducted by third party plaintiff at Inkombank's and its Shareholders' instructions (the "Inquiry") and, further, to cover-up the results of the Inquiry. Cross-claim defendants retained third party defendants purportedly "on behalf of Inkombank" to, in fact, aid and abet cross-claim defendants in a cover-up.

5. Foreign Investors Portfolio Management, Inc. ("FIPM"), captioned in the within action as "additional counterclaim defendant", is a holder in due course of various negotiable promissory notes issued or endorsed by defendant Inkombank in an aggregate amount of approximately U.S. $16 million. FIPM is also an agent and attorney-in-fact for several major shareholders of defendant Inkombank ("Inkombank Shareholders") and currently represents the interests of said shareholders in a bitter controversy between the

shareholders and the management faction which, upon information and belief, currently usurped control over defendant Inkombank.

6. [redacted] b6 b7C captioned in the within action as "additional counterclaim defendants", are attorneys duly admitted to practice law in the State of New York. [redacted] are attorneys of record for "additional counterclaim defendant FIPM in an action which is currently pending in the Supreme Court of the State of New York by Aleri & FIPM against Regal V & Inkombank et al., Index No. 133647/94 (the "State Court Action").

7. Upon information and belief, third party defendant [redacted] is an attorney duly admitted to practice in the State of New York and a [redacted] in the law firm of Christy & Viener and further, upon information and belief, acts as a business agent for defendant Inkombank in New York. b6 b7C

8. Upon information and belief, [redacted] is an attorney duly admitted to practice in the State of New York and [redacted] in the law firm of Christy & Viener and, upon information and belief, [redacted] of defendant Inkombank's New York subsidiary "Inkom Capital, Ltd., a/k/a Alpha Consulting Group." ("Inkom Capital/Alpha"). Inkom Capital/Alpha is a defendant in the State Court Action.

9. Upon information and belief, [redacted] is an attorney duly admitted to practice in the State of New York and [redacted] in the law firm of Christy & Viener. b6 b7C

10. Upon information and belief, First Ten, S.A., Kudos Holdings, Ltd., f/k/a Kudos Investments, Ltd., Inwesta Establishment, a/k/a "Vestina", Walesdon Financial

Company, Laurel Finance, Ltd., Aspiration Holdings, Ltd., Linkvale, Ltd., Prontoservus, Ltd., Manitesser Co. Ltd., [redacted] Adviso Trust Co. Ltd., Savser Management, Ltd., Nashua Trading Corp., all offshore legal entities, are a part of an elaborate offshore network, discovered during the inquiry and believed to be utilized by cross-claim defendants to dissipate Inkombank's assets (Collectively "Offshore Network"). All of the above offshore entities are named defendants in the State Court Action.

b6
b7C

11. Upon information and belief, [redacted] are named defendants in the State Court Action.

12. InkomCapital/ Alpha is a New York corporation and, upon information and belief, acts as agent and instrumentality of defendant Inkombank and of crossclaim defendants and, upon information and belief, was utilized by cross-claim defendants and third party defendants in New York to assist in a cover-up of results of the Inquiry.

13. John Does 11-20 are physical and/or legal persons presently unknown to third party plaintiff who participated in and/or are liable for some or all of the liabilities sued upon. To the extent same becomes known to third party plaintiff, the identity of said persons and/or additional causes of action will be pleaded in the amended third party complaint.

## RELEVANT BACKGROUND FACTS

14. In the latter part of 1994, Inkombank shareholders suspected improprieties on the part of cross-claim defendants and, further, became concerned with the influence

of a Russian mob over defendant Inkombank.[1] They demanded an investigation into the practices and dealings of several highly placed officers of defendant Inkombank and others, including the offshore directors (collectively "D.E.S.K. Group"). Defendant officers initially resisted, but eventually consented to an "internal inquiry". It was agreed between Inkombank shareholders and cross-claim defendants that the Inquiry would be conducted by [redacted] as attorneys for the shareholders, and the Law Offices of [redacted] at the time, attorney for defendant Inkombank. b6 b7C

15. [redacted] did, in fact, together with plaintiff [redacted] conducted an investigation into said financial improprieties in Moscow and various other cities in Eastern and Western Europe and uncovered evidence of the multi-million dollar embezzlement of Inkombank's and its shareholders' funds by the D.E.S.K. Group and, further, uncovered evidence of ties of the D.E.S.K. Group to Russian organized crime factions.

16. In its initial stages, cross-claim defendants appeared to enthusiastically encourage this investigation. However, as the investigation progressed, cross-claim defendants, while formally instructing third party plaintiff and plaintiff to continue the inquiry, engaged in obstructing the latter' efforts. Unbeknownst, at the time, to third

---

[1] Cross-claim defendants numerously admitted that they were concerned with advances by the Russian mob on Russia's major banks, but stated that they were determined to fence off "nayezdy" (translates literally as "run on" (by a vehicle), a common slang word used in today Russia's business community, meaning hostile advance by mob on legitimate businessman for the purpose of "making an offer one can't refuse") - the organized crime influence or control over its operations, and/or utilization of its facilities to launder illicit proceeds. However, by the fall of 1993, the Russian organized crime offensive on Russian financial institutions intensified. Determined to control the facilities to freely transfer billions of dollars derived from the mob related activities, all over the world as well as to share in enormous profits being made by Russian banks on wild Russian Ruble - US$ speculation, gangsters utilized all available means to secure unlawful control in as many Russian banks as possible. The recent CIA and United Nations reports indicate that virtually all Russian financial institutions are currently controlled or influenced by the Russian mob.

party plaintiff (or, upon information and belief, at the time, to plaintiff), but in true and in fact, cross-claim defendants themselves were a part of the conspiracy, and utilized the D.E.S.K. Group as a front and a potential fall guy. Upon information and belief, cross-claim defendants commenced the Inquiry to cover-up their own unlawful activity in a hope that their participation in the illegal deeds would never be uncovered and that they would be able to present to Russian banking authorities, shareholders, Western correspondent banks and others a "report by an American attorney" which would ostensibly affirm no wrongdoing on the part of cross-claim defendants.

17. In January of 1994, cross-claim defendants ordered the Inquiry stopped and informed third party plaintiff, that "the Governing Board of Inkombank had made a decision to pardon" the officers and employees engaged in unlawful activity and requested of both, third party plaintiff, and, upon information and belief, of plaintiff , to conceal the results of the investigation from Inkombank shareholders and, further, requested that third party plaintiff turn over to cross-claim defendants the original stock certificates evidencing the equity of Inkombank shareholders in Joint Stock Bank Inkombank which as cross-claim defendants believed were in the possession of third party plaintiff, as well as certain other original documents evidencing Inkombank's indebtedness to FIPM. In January 1994, cross-claim defendants offered third party plaintiff a substantial "special bonus" for the "work well done". Third party plaintiff unequivocally turned down the "deal". Cross-claim defendants were extremely angry and threatened that "people behind us would conduct razborki (Russian slang word meaning a "trial" by the mob enforcers) with you" and, further, indicated that third party defendants [redacted] Christy & Viener, [redacted]

b6
b7C

[redacted] (collectively "Christy & Viener") would replace plaintiff as attorneys for defendant Inkombank. b6 b7C

18. Cross-claim defendants unambiguously indicated to third party plaintiff that the reason for plaintiff's relief was that defendant officers could no longer "afford" an attorney who was fluent in Russian and thoroughly experienced in Russian law and business customs but rather needed someone who "had absolutely no knowledge of Russian law, spoke no Russian, never visited Russia, never represented a Russian commercial client, and knew nothing about Russian customs". Indeed, defendant officers made no secret of the fact that [redacted] and his firm's ignorance as regards the aforesaid was precisely the "qualifications" which attracted cross-claim defendants in retaining Christy & Viener. Defendants officers were further "sincere" that they retained Christy & Viener not to render Inkombank any legal advice or services but solely to use [redacted] and his firm as puppets to help in a cover-up of unlawful acts by the cross-claim defendants and the D.E.S.K. Group. b6 b7C

19. Further, third party defendants Christy & Viener were retained to be a "gun for hire" in the cross-claim defendants' unlawful campaign to intimidate third party plaintiffs, a two-lawyer partnership, by threatening them with legal action by a much larger law firm. Specifically, cross-claim defendants numerously emphasized to third party plaintiff that one of the most important qualifications of [redacted] to cross-claim defendants was his credentials as an ex-federal prosecutor and his "connections with the authorities". Cross-claim defendants , upon information and belief, intended to utilize these "qualifications" as a "scarecrow" against both third party plaintiff and, upon information b6 b7C

and belief, plaintiff , in order to coerce them to conceal the results of the Inquiry and, further, to aid and abet cross-claim defendants in a cover-up of their dissipation of defendant Inkombank's funds.

20. Third party plaintiff numerously, in good faith, attempted to apprize [redacted] of the real nature of his "retainer" and to enlist his assistance in their effort on behalf of Inkombank as an entity. Further, [redacted] on a number of occasions, was warned verbally and in writing that the persons who retained him may not have, in fact, represented legitimate interests of defendant Inkombank, but were a renegade Russian mob controlled management faction who acquired and maintained control over defendant Inkombank by fraud, coercion and strong arm tactics which, unfortunately, is the way of "doing business" in Russia today. During several visits by [redacted] third party plaintiff let [redacted] review a number of documents evidencing the multi-million dollar embezzlement of Inkombank funds, uncovered during the Inquiry and showing that cross-claim defendants conspired to commit unlawful deeds and, further, showing that Christy & Viener were being utilized as a fig leaf to cover up the conspiracy. Unfortunately, despite being aware of third party plaintiff's and, also, of plaintiff's knowledge and expertise in the area of Russian law and their experience in representing Russian clientele[2], [redacted] chose not to accept the good faith warnings of his fellow bar

b6
b7C

b6
b7C

[2] Both partners of third party plaintiff [redacted] as well as plaintiff [redacted] are qualified as attorneys in the Russian Federation. A significant portion of [redacted] practice consists of representing major Russian corporations, including financial institutions and insurance companies. Plaintiff [redacted] is well known to Russian corporate and banking communities because of his pro bono work for the Academy of Jurisprudence of the Ministry of Justice of the Russian Federation by way of assisting in drafting various commercial laws which were subsequently presented to "Duma" (Russia's Parliament), and, further, because of the frequent lectures and seminars plaintiff conducted in Moscow for senior Russian judiciary. At the personal request of then Russia's Minister of Justice, the Hon. Nickolay Fyodorov, in 1992, plaintiff provided a "crash course" for the senior Russia's judges elected to preside over experimental jury trials resurrected with plaintiff's assistance after 75 years of totalitarian

members, but decided in favor of billable hours. [redacted] further, warned third party plaintiff that, in the event third party plaintiff ever commenced an action against cross-claim defendants, [redacted] would accuse FIPM and even third party plaintiff of converting or assisting in converting of Inkombank's funds, and, further, would falsely cause cross-claim defendants to file disciplinary complaints against third party plaintiff and/or plaintiff.[3] b6 b7C

21. Either out of ignorance of the current situation in Russia, a quest for the "exotic"[4] or a wilful blindness of its [redacted] who "obtained the client" for the firm, third party defendants Christy & Viener took an active role in aiding and abetting cross-claim defendants' cover-up of dissipating Inkombank funds and other wrongful deeds which damaged defendant Inkombank and its shareholders. Christy & Viener, further, encouraged and took an active part in the campaign of maliciously prosecuting and persecuting third party plaintiff as well as original plaintiff and, further, at the instructions of cross-claim defendants, engaged in conducting an array of wild-goose b6 b7C

---

Communist rule. In the same year, plaintiff presented to the Bar Association of the City of New York Russia's Minister of Justice on his first trip to the US. [redacted] hold Honorary Degrees of "Doctor of Laws of Russia" from the Academy of Jurisprudence of the Ministry of Justice of Russia (the highest institution of legal learning in the land) and serve on the Board of Advisors of the Academy. Plaintiff [redacted] is also a US general legal counsel to the Academy. Finally, [redacted] together with the Ministry of Justice of Russia and School of Law of the University of Pittsburgh, compiled, translated and edited "Trade and Commercial Laws of the Russian Federation - Official Codification" published by Oceana Publications, Inc. in 1993 - the only official English language version of Russia's commercial laws which is utilized as a reference by courts in the US.

[3] Third party defendant [redacted] made good on his threat. Having received Inkombank shareholders' demand and notice of forthcoming litigation, upon information and belief, [redacted] on behalf of cross-claim defendants, did file a complaint with the Disciplinary Committee which misrepresented the facts and contained ridiculous and malicious allegations against the plaintiff. b6 b7C

[4] During the very first meeting with [redacted] specifically stated "Fifty years ago I was a Navy officer on board a Submarine in the South Pacific, but this (referring to Russian clients) is really exotic!"

chase "investigations" which were, in fact, calculated by cross-claim defendants to conceal the results of the Inquiry by third party plaintiff as well as the source, ownership, control and location of dissipated Inkombank funds and make it impossible to trace. While conducting the aforedescribed bogus "investigations", third party defendants Christy & Viener are believed to have incurred significant billable hours and other expenses (as alleged/admitted in the Counterclaim) which defendant officers happily keep paying out of defendant Inkombank's funds.

22. FIPM, on behalf of Inkombank shareholders, demanded the Inquiry continued and, further, demanded of cross-claim defendants to clean up the abuses at Inkombank. On or about July 27, 1994, in an effort to avoid full blown litigation between FIPM and defendant Inkombank, third party plaintiff called a settlement meeting with third party defendant [redacted] and, further, invited plaintiff [redacted] to attend. During the meeting, numerous documents were shown to [redacted] evidencing indebtedness of defendant Inkombank to and improprieties of cross-claim defendants vis-a-vis FIPM and Inkombank shareholders. Having reviewed these documents, [redacted] upon information and belief, immediately advised cross-claim defendants to move approximately $26M of Inkombank funds out of US jurisdiction, so as to place such funds outside of the reach of US Courts, and, further, upon information and belief, personally signed the order to Smith Barney to so withdraw the funds.

b6
b7C

23. On behalf of FIPM, third party plaintiff forwarded a letter to [redacted] protesting so placing the funds outside of the reach of creditors. No response was forthcoming.

24. Having exhausted all good faith attempts to reason with defendant officers and third party defendants, on December 6, 1994, FIPM commenced an action against defendant Inkombank, its officers, employees, subsidiaries and agents and the offshore entities and offshore directors for breach of contract, fraud, and tortious interference with contractual relationship. The action was intended, inter-alia, to compel defendant officers to revive the Inquiry successfully halted and frustrated by cross-claim defendants with the "invaluable" assistance of third party defendants Christy & Viener, and to secure accountability for the dissipated (and/or then about to be dissipated) funds of Inkombank and, further, to halt further abuses of cross-claim defendants and others in dissipating Inkombank's funds.

25. Immediately upon commencement of the State Court Action , cross-claim defendants aided and abetted, wittingly or out of recklessness and wilful blindness, by third party defendants Christy & Viener, and further, acting in concert with the offshore entities and offshore directors, engaged in conspiracy to delay, prolong and frustrate the State Court Action by unlawful means, including but not limited to, perjury, filing of fake documents with the court, harassing plaintiffs and their attorneys, intimidating, coercing and threatening potential witnesses, including threats of physical violence, and, finally, initiating false and malicious action in this Court. Cross-claim defendants, obviously not intending to "win" on the merits, calculated, that by delaying and prolonging the State Court Action, cross-claim defendants and those acting in concert with them in Moscow and other places around the globe would be able to complete the cover-up of their unlawful deeds and to secure the ill-gotten proceeds of the latter.

26. Cross-claim defendants, further, with the assistance and active participation, wittingly or out of willful blindness, of third party defendants Christy & Viener engaged in an all-out campaign to disparage the good name and reputation of third party plaintiff and, upon information and belief, plaintiff, including, inter alia, writing libelous and scandalous letters to third parties. As a result of this tortious conduct and, further, to recover legal fees, on January 6, 1995, the original plaintiff commenced the within action.[5]

27. On March 20, 1995, third party defendants Christy & Viener did, in fact, file counterclaims against original plaintiff in the within action and, further, named as "additional counterclaim defendants" parties and their attorneys in the State Court Action, purportedly, on behalf of defendant Inkombank.

28. The counterclaims contained false, malicious, scandalous and facially absurd allegations calculated to harass plaintiffs and their attorneys in both court actions and, further, to delay and prolong the action in this Court so as to manipulate and pervert the process for ulterior purpose. Cross-claim and third party defendants' clear aim and purpose was to wreck havoc and confusion in this action and, possibly, by artificially creating a conflict of interest between plaintiffs in the State Court Action and their counsel, to deprive plaintiffs of legal representation by attorneys familiar with the case, thus, gaining undue advantage and prejudicing plaintiffs in this Court.

29. As a result of the above described massive cover-up, cross-claim defendants with assistance and participation of third party defendants, successfully interfered with and

---

[5] Defendants were forced to admit to writing a letter containing defamatory statements about plaintiff in their Answer, para. 31 (Exhibit 1).

impeded and frustrated the efforts by FIPM and their attorneys, the third party plaintiffs herein, to halt the cover-up of cross claim defendants' unlawful deeds, or to slow down the dissipating of Inkombank's funds by cross-claim defendants[6].

30. While Inkombank shareholders and the third party plaintiff have not yet concluded the investigation into financial intermingling between third party defendant Christy & Viener and other third party defendants and the cross-claim defendants, it is believed that various monies were syphoned off by cross-claim defendants through various escrow and/or other attorney accounts of one or more of the third party defendants Christy & Viener.

## CLAIM FOR RELIEF: INDEMNITY

31.As aforealleged, cross-claim defendants and third party defendants engaged in a massive cover-up and did interfere with third party plaintiff's and "additional counterclaim defendant" FIPM's efforts to stop financial abuses at Inkombank, and, further, obstructed third party plaintiff's Inquiry into dissipating by cross-claim defendant Inkombank's officers, and aided and abetted, and/or participated in a cover-up of said abuses, and, further, delayed and obstructed the action in the State Court, intended, inter alia, to recover damages caused by cross-claim defendants' conduct, and to stop abuses and unlawful deeds of cross-claim defendants.

---

[6] It is sad and ironic that Christy & Viener numerously alleged in their delusionary counterclaims against third party plaintiff that Inkombank "was unable to trace" funds, when it was the cross-claim defendants' and third party defendants' 16 month effort that helped to disguise the results of third party plaintiff's investigation and deprived Inkombank of its property.

32.As a direct and proximate cause of third party defendant Christy & Viener's, either intentionally or recklessly, or in disregard of reality in favor of churning billable hours, aiding and abetting cross-claim defendants and/or in failing to conduct due diligence in verifying cross-claim defendants' representations, and, instead, allowing its mob-influenced clients to manipulate Christy & Viener and to wrongfully harass, oppress and prosecute their fellow Bar members while aiding and abetting conversion by its clients, Christy & Viener is liable to Inkombank for any and all resulting damages, including, without limitations, the cost of the State Court Action, as well as that of this litigation.

33. For the reasons heretofore alleged, cross-claim defendants and third party defendants are liable to Inkombank for any losses resulting from the conversion by Inkombank's senior officers and, in addition, are responsible for running-up vast costs of the bogus "investigation", including, without limitations, significant fees for themselves.

34. In addition, cross-claim defendants [redacted] agreed to indemnify third party plaintiff from any and all actions and liabilities resulting from claims of third parties, including, without limitations, defendant Inkombank.

b6
b7C

WHEREFORE, third party plaintiff [redacted] demands judgment against third party defendants [redacted] Christy & Viener, First Ten, S.A., Kudos Holdings, Ltd., f/k/a Kudos Investments, Ltd., Inwesta Establishment, a/k/a "Vestina", Walesdon Financial Company, Laurel Finance, Ltd., Aspiration Holdings, Ltd., Linkvale, Ltd., Prontoservus, Ltd., Manitesser Co. Ltd., [redacted] Adviso Trust Co. Ltd., Savser Management, Ltd., Nashua Trading Corp., [redacted]

b6
b7C

[redacted]

InkomCapital, Ltd. a/k/a Alpha Consulting Group, Ltd., and John Does 11-20, and, further, against cross-claim defendants [redacted] b6 b7C

[redacted]

and John Does 11-20 for any sums which may be adjudged against third party plaintiff in favor of defendant Inkombank, and, further, demands judgment awarding third party plaintiff any and all costs connected with the within action and for such other, further and alternative relief as this Court may deem appropriate under the circumstances.

Dated: New York, New York
April 10, 1995

Respectfully submitted,

By [redacted]

Third party plaintiff Pro Se,

[redacted]

New York, NY 10001

[redacted]

TO: Christy & Viener, Esqs.
620 Fifth Ave,
New York, NY 10020 b6 b7C

[redacted]

Plaintiff, pro se,

[redacted]

New York, NY 10121

RICHARD A. ANDERMAN
ROBERT S. APPEL
STEVEN R. BERGER
JAMES S. BOYNTON
JOHN F. CAMBRIA
ANTHONY J. CARROLL
ARTHUR H. CHRISTY
L. DAVID CLARK, JR.
RUSSELL J. DASILVA
RICHARD M. ESTES
MARIA T. GALENO
WILLIAM F. GRAY, JR.
P. GREGORY HESS
L. ANTHONY JOSEPH, JR.
DAVID G. LEVERE
JEROME M. LEWINE
LAURENCE S. MARKOWITZ
JON J. MASTERS
WAYNE C. MATUS
RICHARD SALOMON
SALVATORE A. SANTORO
DANIEL J. SULLIVAN
KENNETH W. TABER
FRANKLIN B. VELIE
JOHN D. VIENER
KARON WALKER

CHRISTY & VIENER
620 FIFTH AVENUE
NEW YORK, NEW YORK 10020-2402
(212) 632-5500

FACSIMILE
(212) 632-5555

DIRECT DIAL NUMBER
(212) 632-5507

March 28, 1995

Special Agent [redacted]
Federal Bureau of Investigation
26 Federal Plaza
New York, New York 10278

b6
b7C

Re: [redacted]

Dear [redacted]

I am enclosing for your information a copy of a complaint filed by [redacted] [redacted] *pro se*, against [redacted] of Inkombank, Inkombank and other present and former officers of Inkombank, in the Southern District of New York.

We have answered the complaint on behalf of [redacted] and Inkombank. In addition, we have filed a lengthy counterclaim against [redacted] on behalf of Inkombank.

b6
b7C

Enclosed are copies of [redacted] complaint and the answer and counterclaim we filed.

If you should have any questions, just give me a ring.

Very truly yours,

[redacted]

[redacted]
enc.

0050457.01

RICHARD A. ANDERMAN
ROBERT S. APPEL
STEVEN R. BERGER
JAMES S. BOYNTON
JOHN F. CAMBRIA
ANTHONY J. CARROLL
ARTHUR H. CHRISTY
L. DAVID CLARK, JR.
RUSSELL J. DASILVA
RICHARD M. ESTES
MARIA T. GALENO
WILLIAM F. GRAY, JR.
P. GREGORY HESS
L. ANTHONY JOSEPH, JR.
DAVID G. LEVERE
JEROME M. LEWINE
LAURENCE S. MARKOWITZ
JON J. MASTERS
WAYNE C. MATUS
RICHARD SALOMON
SALVATORE A. SANTORO
DANIEL J. SULLIVAN
KENNETH W. TABER
FRANKLIN B. VELIE
JOHN D. VIENER
KARON WALKER

CHRISTY & VIENER
620 FIFTH AVENUE
NEW YORK, NEW YORK 10020-2402
(212) 632-5500

FACSIMILE
(212) 632-5555

DIRECT DIAL NUMBER
(212) 632- 5507

January 19, 1995

Special Agent [redacted]
Federal Bureau of Investigation
26 Federal Plaza
New York, New York 10278

Re: [redacted]

b6
b7C

Dear [redacted]

Enclosed for your information is a copy of the reply submitted by [redacted] to the Disciplinary Committee in response to the complaint filed by Inkombank against [redacted]

I think you will find it interesting reading.

Very truly yours,

[redacted]

b6
b7C

[redacted]
enc.

0044292.01

[redacted]

b6
b7C

Attorneys and Counselors at Law

[redacted]
New York, New York 10121
tel [redacted]
fax [redacted]

[ ] Reply to Moscow office
[redacted]

December 10, 1994

[redacted]
Chief Counsel
Departmental Disciplinary Committee
Supreme Court, Appellate Division
First Judicial Department
41 Madison Avenue
New York, N.Y. 10010

b6
b7C

Re: Complaint of JOINT STOCK BANK INKOMBANK
Docket No. 94.3036

STATEMENT IN RESPONSE

[redacted] attorney duly admitted to practice in the State of New York ("RESPONDENT"), thoroughly reviewed a copy of the Complaint-Memorandum ("COMPLAINT") which appears to be a telefacsimile on the letterhead of Joint Stock Bank Inkombank ("PURPORTED COMPLAINANT" [1]) to the Disciplinary Committee as well as the respondent's files which are pertinent to the within matter and respectfully submits to this Committee this response to the allegation.

I. NATURE OF THE ALLEGATION

The only allegation in the complaint against the respondent appears to be the ostensible non delivery of some portion of the purportedly former client's file to the substituting

[1] This respondent refers to the author of this complaint as "purported complainant" for, as will be shown below, the complaint is not in fact forthcoming from Joint Stock Bank Inkombank.

counsel.

The purported complaint indicates that the purported complainant "...*believes that* [redacted] *may be in violation of Disciplinary Rules in that he has not delivered all of the documents to the counsel who substituted for* [redacted] (Complaint pa. 3). Purported complainant admits that [redacted] [redacted] b6 b7C *... did provide him with certain records..."* (Ibid.), however goes on to state: [redacted] *of Christy & Viener, later advised me that he did not believe that he had been given all the documents in* [redacted] *possession relating to matters of Inkombank and a company owned by Inkombank Hoverwood".*

Thus, the purported complainant's allegation of presumable delivery of less than a complete file is founded merely in [redacted] "belief" to that effect.

II. GENERAL RESPONSE TO THE ALLEGATION

Respondent unequivocally denies any allegations of failure by [redacted] to comply with any of the disciplinary rules in the within matter. Respondent is appalled at the fact that a New York attorney [redacted] who is well aware of the falsity not only of the allegation against [redacted] but, as will be shown below, of the misleading nature of the "complaint" itself, drafted and filed this false and misleading "complaint". Respondent respectfully submits that this complaint is filed for the sole purpose of gaining questionable advantage in litigation which is currently pending in the Supreme Court of the State of New York against purported complainant (NY Supr. Index No. 94133647). Purported complainant was advised of the forthcoming litigation two days prior to filing of his complaint, as evidenced by Inkombank's

b6 b7C

shareholders' letter-demand on the Board of Inkombank ("SHAREHOLDERS' DEMAND") (Exhibit 1)

## III. MISLEADING NATURE OF THE "COMPLAINT" PER SE

### PERTINENT BACKGROUND FACTS

Joint Stock Bank Inkombank ("INKOMBANK") is an entity licensed as a commercial bank under the laws of and domiciled in Russia. In order to gain a general perspective of the dubious genesis of the complaint it is important to characterize the environment in which the purported complainant operates, and with which [redacted] is intimately familiar.[2] b6 b7C

Currently, Inkombank is (as are virtually all major Russian banks) in the midst of a severe internal power struggle fueled by various Russian mob influenced groups fighting for control over Russian financial institutions, their depositors' funds and their international money transfer facilities. Annexed, as Exhibit 2, please find a summary of a recently released study by the United Nations Secretariat which reports that virtually all major financial institutions in Russia are in the hands of organized crime, and other pertinent media reports as regards same.

---

[2] This respondent in addition to being a New York attorney is also a practicing lawyer in the Commonwealth of Independent States. [redacted] and is fluent in Russian. [redacted] holds an Honorary Degree of Doctor of Laws of Russia from the Academy of Jurisprudence of the Ministry of Justice of Russia (the highest institution of legal learning in the land.) [redacted] also is a US general legal counsel to the Academy of Jurisprudence and lectures in the Academy to senior Federal Judges of the Russian Federation. (See Exhibit 8) Finally, [redacted] "Trade and Commercial Laws of the Russian Federation - Official Codification" published by Oceana Publications, Inc. together with the Ministry of Justice of Russia and University of Pittsburgh Law School - the only official English language version of Russia's commercial laws. b6 b7C

Inkombank, at the present time unfortunately is not an exception. In the recent crackdown by the Central Bank of Russia following the scandal involving the conspiracy by some major Russian banks to devalue the Russian currency by 25% in one day Inkombank was named amongst "the top players" (Exhibit 3).

In the year 1993 twenty four prominent Russian bankers were murdered amid the mob's takeover of the major Russian banks, including a senior executive of Inkombank, who was killed, execution style, in St. Petersburg last summer. Last month an executive of Inkombank's affiliated real estate company "Inkom" and her husband were also murdered. (See Exhibit 4).

The respondent brings forth the aforementioned facts in order to provide this Committee with a clearer understanding of the setting in which this complaint emanates. In short, it is by no means a complaint from a "typical corporate client".

Respondent respectfully submits that the "complaint" is grossly misleading not on only as regards its allegation or its account of facts, but also in its form.

**POINT 1. The complaint purports to be forthcoming from [redacted] "former client" - which is patently misleading** b6 b7C

The critical factor in the within matter which the complaint omits to indicate, is that while the complaint is printed on the letterhead of "Joint Stock Bank Inkombank" and purports Inkombank to be the complainant in true and in fact same emanates from a renegade management faction, which is currently trying to usurp complete control over Inkombank, aided, according to

Inkombank's major shareholders by organized crime elements, as against the interests of these shareholders. (See shareholders' demand (Exhibit 1)) some of whom [redacted] represents. b6 b7C

As clearly seen from the shareholders' demand (Ibid.) we are dealing with an internal proxy fight, "Russian style" (i.e. necessarily with participation of organized crime elements) between the shareholders and the management. (Interestingly - the "complaint" is dated November 11, i.e. two days after the shareholders' demand on the board combined with the litigation notice was forwarded to Inkombank by the shareholders (Ibid.))

POINT 2. The conflict presented in this matter is not between a former client and a former counsel, but rather between the management of Inkombank and its shareholders who are engaged in a bitter battle for control of Inkombank.

PERTINENT BACKGROUND FACTS

By way of providing this Committee with background, it is noteworthy that in the summer of 1993 Inkombank sold 40% of its stock, which represented a controlling interest of Inkombank, for the aggregate price of US$40,000,000. Annexed herewith as Exhibit 5 are copies of stock purchase agreements and stock certificates. This transaction was one of the largest transactions of this type in the Federation of Russia since "perestrojka" and was widely reflected in the Press. Annexed herewith as Exhibit 6 are some of the articles which appeared in the news media pertaining to this transaction with translation where appropriate. Subsequent to the purchase, the law firm of [redacted] represented the parties b6 b7C

who purchased Inkombank's stock. ("INKOMBANK'S SHAREHOLDERS"). At the request of Inkombank's management [redacted] also rendered legal advice to Inkombank's shareholders and their personal representatives after the purchase. As clearly seen from the shareholders' demand (Exhibit 1), there now exists a severe conflict between the management and the shareholders with both parties claiming control over Inkombank. In fact, as evident from the forementioned shareholders' demand (Ibid.), Inkombank shareholders still view [redacted] for Inkombank.[1] b6 b7C

Hence, the complaint against [redacted] is in fact coming not from "a former client", as purported complainant wants this Committee to believe, but from a party whose interests are adverse to the interests of [redacted] client-shareholders and the interests of Inkombank as an institution, i.e., for all intents and purposes - from the adversary. It is further clear from the shareholders' demand, that the purported complainant is attempting to improperly utilize the facilities of this Committee to apply pressure on [redacted] in order to obtain documents of Inkombank shareholders to which the purported complainant is not entitled. The purported complainant is simply attempting to bring its hostile takeover controversy between the shareholders and the management to this Committee by falsely portraying same as a "conflict with a [redacted]". b6 b7C

[1] A derivative action against the management in the name of Joint Stock Bank Inkombank is currently contemplated in which [redacted] was instructed by Inkombank shareholders to file as counsel of record for Inkombank. b6 b7C

IV. THE "COMPLAINT" IS FALSE AND MISLEADING ON ITS FACE, AND FURTHER IS FULL OF INCONSISTENCIES, MIS-STATEMENTS OF FACTS AND OUTRIGHT FALSITIES.

While, the "complaint" does not allege any fault on the part of [redacted] other than the ostensible "non-delivery" of some of the papers presumably concerning [redacted] clients, [redacted] wishes to draw the attention of this Committee to numerous inconsistencies and half truths even though most of the "facts" presented in the "complaint" are not even relevant to the purported complainant's presumable "grievance". b6 b7C

1. The Complaint states that when [redacted] was retained by Joint Stock Bank Inkombank to prosecute an action against Citibank in the latter part of 1992, *"...there was no fee or retainer agreement entered into"*. This is simply false. Annexed herewith as Exhibit 7 is a copy of the retainer agreement, executed by the purported complainant with regard to the Inkombank v. Citibank matter. [redacted] was provided with a copy of this document and carefully reviewed it in [redacted] presence.)

2. The complaint states: *"On August 5, 1994* [redacted] *and one of his colleagues had occasion to visit with* [redacted] *share the same office with* [redacted] *..."*. (Complaint pa. 2) b6 b7C

(a) No meeting among [redacted] and [redacted] took place *"..on August 5, 1994..."*. [redacted] on this particular day was out of state, and to the best of my re-collection [redacted] was in Morocco.) In an

effort to spare this Committee the exploring of this non-issue, may I respectfully suggest that the "complaint" probably refers to a meeting among the forementioned counsel which took place on July 27, 1994. This respondent is bringing up this sloppiness in the account of facts in the complaint to this Committee simply to further illustrate the frivolous nature of this exercise by purported complainant and his attorney. May I respectfully point out to my esteemed colleague, that the accusing of a fellow-attorney of ethical impropriety is a serious matter and ought not to be undertaken cavalierly. The least counsel could have done was to check his calendar.

(b) Further, [redacted] is well aware of the fact that [redacted] does not *"...share the same office..."* with [redacted] as the purported complaint professes. As irrelevant as this assertion may be to the allegation that [redacted] presumably turned over to "the new counsel" something less than the complete file, the respondent would like to draw the attention of [redacted] own letters to [redacted] (annexed to the very "complaint", yet!) and [redacted] letters addressed to [redacted] and compare the addresses appearing on these letters which are, of course, different.[2] (See [redacted] annexed to "complaint" - compare with Exhibit 10 - letter from [redacted] The undersigned

b6
b7C

[2] [redacted] does in fact maintain an office on the same floor as [redacted] (as do couple of other law firms) which has a different suite number and, of course a different entrance.

does not wish to waste the time of this Committee with this irrelevant non-issue, but only wants to note the slipshod manner in which this complaint was crafted.

3. The complaint states that the purpose of the forementioned meeting amongst the three counsel was *"... to discuss the delivery of various documents... "* (Complaint pa. 2) and goes on to state that *"...At that time* [redacted] *exhibited to* [redacted] *and his colleague three velo-bound books and a three ring notebook, containing the documents relating to Inkombank and Hoverwood which had not been previously delivered."* (Ibid.) [redacted] respectfully submits that the foregoing is a complete distortion of fact. b6 b7C

The purported complainant describes the meeting between Christy & Viener and attorneys for the shareholders, [redacted] on July 27, 1994 (erroneously accounted for as having taken place on August 5) as an *"... occasion to visit with* [redacted] *"...to discuss the delivery of various documents..."*, (Complaint pa. 2). This is totally misleading. The meeting on July 27, 1994 took place between [redacted] for the management faction and [redacted] for the Inkombank's shareholders (i.e. between two adversaries) at the request of [redacted] in his effort to avert litigation between [redacted] clients (which has now commenced as mentioned supra.) It could hardly be referred to as an *"... occasion to visit with* [redacted] *"* - much less was the purpose *"...to discuss the delivery of various documents..."* with this b6 b7C

respondent, as the purported complainant professes. [redacted] is well aware of the fact that [redacted] attended the meeting strictly as a courtesy to and at the invitation of both counsel in an effort to assist both parties in settlement negotiations. The shareholders' demand also refers to the very same meeting by stating: *"In fact immediately after* [redacted] *of Christy & Viener met with our New York attorneys* [redacted] *on July 27 of 1994 and reviewed the documents exhibited to* [redacted] *which contained evidence of debts from Inkombank to FIPM and the shareholders, management without our consent removed approximately $25,000,000 from the US."* (Exhibit 1.) b6 b7C

Further, annexed as Exhibit 14 is a letter to Christy & Viener from [redacted] also tending to show that [redacted] abused the courtesy of the opposing counsel: having reviewed the documents, which [redacted] allowed [redacted] to review in their offices for purposes of settlement (such documents apparently showed significant indebtedness of [redacted] clients) [redacted] not only advised his clients but <u>over his own signature</u> wire transferred US$25,000,000 out of US jurisdiction, i.e. out of reach of US creditors and US courts. b6 b7C

Apparently, prior to this meeting both counsel requested from one another various documents pertaining to their clients' respective grievances.

(a) Annexed herewith as Exhibit 9 is a letter from [redacted] consented, for the purposes of attempting to settle out of b6 b7C

court, to permit Christy & Viener to examine certain documents in the offices of [redacted]

(b) Further, annexed as Exhibit 10 is a letter from Christy & Viener to [redacted] dated July 15, which indicates that while the management of Inkombank refuses to produce documents for review by [redacted] *"... would be happy to accept..."* [redacted] invitation *"... to visit with you* [redacted] *and to review documents which you say would indicate that our assertions are without basis."* b6 b7C

(c) Still further, annexed as Exhibit 11 is a copy of a letter from [redacted] to Christy & Viener dated July 20, 1994, which states: *"... naturally we take exception to your statement pertaining to "necessity" or "requirements" for you to produce substantiations to your clients' outlandish claims. Obviously, our demand for production of documents as set forth in our letter dated 7/12/94 stands and our clients reserve their right to take whatever action we deem appropriate to ensure production of same. Nonetheless, we choose not to withdraw our invitation. We thus confirm our meeting at our offices on Wednesday July 27, 1994"* and further states: *"... I noticed* [redacted] [redacted] *of the forthcoming meeting and requested his participation which of course would be indispensable."* b6 b7C

Thus, as clearly seen from the forementioned correspondence, the purported complainant obviously misrepresents the purpose of the meeting and the role of [redacted] in attending same. The meeting took place between the two counsel for

parties on the verge of engaging in litigation, with [redacted] attending as a matter of courtesy. The question of the production of documents was obviously between these parties. Clearly, this respondent had not "...*exhibited to* [redacted] *and his colleague three velo-bound books...*" sitting in [redacted] office. Any documents which [redacted] chose to allow [redacted] to examine in their offices including the alleged "...*three velo-bound books...*" were obviously files of [redacted] client and were not in any way "...*exhibited...*" by [redacted] Purported complainant, apparently confuses (or intentionally misrepresents) the fact that [redacted] sat in the same room with the two opposing counsel (which, obviously, is not denied) with the issue of who "...*exhibited...*" the documents to [redacted] Clearly, having removed the assets out of reach of creditors the purported complainant and its counsel are improperly attempting to substitute a proper discovery procedure in an action between the clients of Christy & Viener and the clients of [redacted] with "litigating" this issue in the Disciplinary Committee.[3]

b6
b7C

b6
b7C

4. While the "complaint" does not allege any impropriety against [redacted] as regards any unauthorized actions, [redacted] still feels compelled to respond to a totally

---

[3] Disturbing is [redacted] pattern of conducting unlawful, out of channel discovery. Annexed herewith as Exhibit 13 is a letter from [redacted] of Chemical Bank. This letter describes incomprehensible conduct on the part of [redacted] who, apparently, impersonated an accountant of his adversary in order to deceive bank personnel and obtain confidential bank records. Apparently, [redacted] does not believe in obtaining documents through regular court procedure adopted in this State. His complaint is further evidence of [redacted] subscribing to highly questionable "investigative techniques".

b6
b7C

outrageous statement "dropped" as if "by the way" by the purported complainant: *"In the period of 1992 until early 1994* [redacted] *involved himself in many affairs of Inkombank without the knowledge and consent of the Board of Directors of Inkombank."* (Complaint pa. 1) b6 b7C

The absurdity of this statement may be evidenced by:

(a) the annexed copy of General Power of Attorney (Exhibit 12) in favor of [redacted] which is executed by the very person whose signature purports to appear on the "complaint". This General Power of Attorney was given "for valuable consideration", which under the Restatement is absolutely irrevocable other than in accord with the agreement.[4]

(b) Annexed under the same exhibit is the second general power of attorney given to [redacted] by the same purported complainant more than a year after the first one. (Purported complainant reaffirms his vows, so to speak.) Odd that someone who ostensibly didn't consent to [redacted] "involvement" in his affairs would execute this second general power of attorney 12 months after the first one. b6 b7C

It is incredible that the attorney who drafted this "complaint" in view of these documents, felt within his own ethical parameters in asserting that [redacted] could possibly have acted without authority with respect to any of the affairs of Inkombank.

---

[4] (See also *In re Jarmakowski's Estate* 169 Misc. 463 (1938).

(c) Finally, annexed hereto under the same exhibit is the letter from the purported complainant which appears to express complainant's gratitude for this respondent willingness to *"...involve himself in many affairs of Inkombank..."* Of course, this respondent could produce numerous exhibits evidencing the unequivocal authority of [redacted] to (what [redacted] "eloquently" terms as) *"...involve himself..."*, however this respondent feels that now that the matter of Inkombank is in court it would be grossly unfair and prejudicial to [redacted] clients and other Inkombank's shareholders to permit the purported complainant to improperly utilize this Committee for purposes of discovery. b6 b7C

5. With regard to the profess that *"...on or about August 20, 1994* [redacted] *had delivered to an Inkombank branch office in Switzerland a file marked* [redacted] *.."* (Complaint pa. 2) - this is totally false. The shareholders' demand refers to the very same file by stating *"After we delivered to Inkombank's office in late August of 1994 our file (well familiar to you file No.* [redacted] *your* [redacted] *hastily changed his tune."* (Exhibit 1). Thus it is unequivocally stated that the file in issue was delivered to Inkombank's management by the shareholders and not by [redacted] b6 b7C

**V. UNDER THE PRESENT CIRCUMSTANCES ANY DISCLOSURE OF DOCUMENTS TO PURPORTED COMPLAINANT SHOULD BE COURT SUPERVISED TO AVOID PLACING RUSSIAN WITNESSES AND THEIR FAMILIES IN IMMANENT PHYSICAL DANGER.**

Respondent respectfully submits to this Committee that

this respondent is too well familiar with the current sad state of affairs in Russian law and law enforcement structure in general, and as such refers to the recent waive of mob takeover of financial institutions in particular. With the collapse of the Communist dictatorship, abolition of the old penal law system with the new one in its embryonic stage[5], the law enforcement agencies not adequately funded or manned, the pandemic official corruption, there is virtually no resistance to the wide advance of the "New Mafia" which currently usurps every sphere of Government, industry, trade and banking. Contract murders became the routine "way of doing business", collecting debts, securing contracts, etc. The system of official adjudication by courts is rapidly turning into "the best justice money can buy". Potential witnesses are routinely harassed, intimidated and co-erced into giving the "right" testimony[6], and in the unlikely event of resistance - murdered.[7] Respondent tends to share the sentiment expressed in the shareholders' demand that the purpose for which the documents are possibly sought by the purported complainant "*... is to identify potential Russia based witnesses in the forthcoming litigation in*

---

[5] [redacted] is currently working with the Academy of Jurisprudence of Russia and senior Russian judiciary on the next issue of the "Official Codification" which focuses on the new penal code of Russia and is expected to be published in the first half of 1995. [redacted] also conducts seminars for the Russian judiciary on Common Law jury trial procedure. (Exhibit 8b) b6 b7C

[6] Not only in Russia but in numerous international forums, which this respondent attends frequently.

[7] The "going rate" for average contract assassination in Moscow today is 1,000,000 Russian rubles - approximately US$3,000 with supply rivaling demand.

*order to apply unlawful means to prevent them from testifying."* (Exhibit 1). Thus, [redacted] respectfully submits that the decision as to which documents should be produced and in what form may better be left to the courts which are able to rule in each particular instance, having given all parties the opportunity to be heard and to present their position and concerns with regard to disclosure. b6 b7C

VI. CONCLUSION

Based upon the aforesaid, the respondent respectfully submits, that:

1. The "complaint" attempts to mislead this Committee by presenting this matter as a "plain vanilla" case of a former client annoyed at a lawyer, who decided "not to bother" and *"...has not delivered all of the documents to the counsel who substituted for* [redacted] (Complaint pa. 3). Obviously, this is not the case. The matter which purported complainant is attempting to improperly "litigate" in this Committee is the controversy between the management and the shareholders. b6 b7C

2. The complaint is not forthcoming from a bona-fide aggrieved party. Rather, it is filed by a faction whose apparent ulterior motive is to attempt to improperly utilize the facilities of this Committee in order to gain an undue advantage in an action which is currently pending in the Supreme Court (supra) and to obtain the documents through the facilities of this Committee in lieu of following the proper discovery procedure in the litigation between the shareholders and the management. [redacted] now has b6 b7C

full and fair opportunity to argue his clients' position in the forum where it belongs - the court of law. This desperate attempt to "conflict out" potential opponent-counsel on the eve of the litigation was, respectfully, chicanery unworthy of a New York attorney.

3. The issue of discovery and production of any documents sought by purported complainant should have been addressed in the proper forum - a court of law which may inter alia consider the probative value of the documents versus the potential risk to persons resulting from disclosure, and further has the power to issue protective orders and take other protective measures as the court deems appropriate.

Hence this respondent respectfully submits that the "complaint" is totally frivolous, without merit, and is filed not to express a legitimate grievance but for an ulterior motive, which, very respectfully, constitutes a violation of the Disciplinary Rules on the part of the counsel who filed same.

While [redacted] can appreciate [redacted] b6 b7C challenge in attempting to represent a Russian client in an internal mob-linked proxy fight in Moscow while speaking no Russian and being totally ignorant as regards Russian laws and Russian business customs, and further ignorant even as regards whom his law firm in fact represents[8], this ignorance is no excuse for engaging

---

[8]. [redacted] numerously advised [redacted] of the circumstances surrounding mob struggle for control over Russian banks, including Inkombank, and further advised [redacted] that Christy & Viener was in fact retained not as corporate counsel for Inkombank but as counsel for the management faction against the shareholders. b6 b7C

in, respectfully, very questionable antics against his fellow bar member.[9]

Most certainly, the respondent would be happy to further clarify any of the foregoing or to respond to any questions this Committee may deem appropriate.

Respectfully submitted,

[redacted] b6 b7C

[9] [redacted] would like to believe that [redacted] is not knowingly aiding and abetting purported complainant in unlawful activity, but simply is misled by the latter, who takes advantage of [redacted] poor understanding of what takes place in the "Russian financial community" in general and Inkombank in particular. b6 b7C

# Foreign Investors Portfolio Management Inc.

*conseil de financement*
*associes professionals*

*Telefacsimile Transmission*

| | | |
|---|---|---|
| **TO:** | **SUBJECT:** Demand upon the Board | **REF:** 04652 |
| **DATED:** London Nov. 9 1994 | **FAX No.** 7095.331.8833 | **CLIENT:** |
| **COMPANY:** Joint Stock Bank "INKOMBANK" | **SENDER:** | |

b6
b7C

Dear

As you know Foreign Investors Portfolio Management Inc. represents the interests of Inkombank's controlling shareholders Morgenthow and Latham, New York International Insurance Group and Oriental XL Funds who own 40% of Inkombank's common stock.

In the past year Inkombank's management, engaged a conduct intending to initially defraud these Shareholders and subsequently with the support of the organized crime factions attempted to deprive Inkombank's Shareholders of their equity interest. Despite our repeated demands you refused to provide the shareholders with information concerning the bank activity to which we are entitled by law. Further you ceased the payment of dividends which are guaranteed by Inkombank in accordance with the stock purchase agreement. Still further, we have reasons to believe that the management through a network of offshore shell companies such as First Ten, S.A. of Panama, Kudos Holdings, Ltd. f/k/a Kudos Investments, Ltd. of Cyprus, Inwesta Establishment, a/k/a "Vestina", of Liechtenstein, Walesdon Financial Company of BVI, Laurel Finance, Ltd. of BVI, Aspiration Holdings, Ltd. of Cyprus Linkvale, Ltd. of Cyprus, Prontoservus, Ltd. of Cyprus, Manitesser Co. Ltd. of Cyprus, Adviso Trust Co. Ltd. of Cyprus Savser Management, Ltd. of Cyprus, Nashua Trading Corp. of Panama, Hoverwood Ltd., of Dubline, Ireland syphoned off millions and possibly tens of millions of dollars belonging to JSB Inkombank through Hellenic Bank, Ltd., Royal Bank of Scotland, Bank of Cyprus, Ltd., Bank of Liechtenstein, Bank of New York and other banks in various countries.

Further the management over our strong objection "invited" to become

b6
b7C

Inkombank's [redacted] i.e. the chief of bank's hard currency funds. You are well aware that [redacted] is known to be connected with, and possibly acts at the behest of a Russian mob faction, and is known to be engaged in international money laundering activity. [redacted] without our consent retained the US law firm of Christy & Veiner purportedly "in place of [redacted] to in order to avail itself of its assistance in seizing control over Inkombank in Russia by improperly utilizing US legal facilities and further, in order to attempt to convert the bank's funds which are on deposit in US banks and investment houses. b6 b7C

In fact immediately after [redacted] of Christy & Veiner met with our New York attorneys [redacted] on July 27 of 1994 and reviewed the documents exhibited to [redacted] by [redacted] which contained evidence of debts from Inkombank to RPM and the shareholders management without our consent removed approximately $25,000,000 from the US. (The order to wire the funds out of country was signed by yourself, [redacted] and [redacted] himself.) Obviously, this action was taken in order to place the bank's funds outside of reach of US jurisdiction in anticipation of legal action. b6 b7C

Also, it is apparent that the management attempts to replace [redacted] (who, in addition to being a New York attorney is also a practicing lawyer in the Commonwealth of Independent States perfectly fluent in Russian, holds Honorary Doctor of Laws of Russia Degree from the Academy of Jurisprudence of the Ministry of Justice of Russia, and is the US foremost expert on Russian law as an author of the Official Codification of Trade and Commercial Laws of Russia and is intimately familiar with the current state of affairs in Russia) with attorneys who are totally inexperienced in Russian law and do not speak Russian is an attempt by this management to manipulate this US law firm, utilizing its ignorance of Russian law and business customs, as a front, a fig leaf to assist this faction the cover up of its unlawful activities. You are well aware that [redacted] works closely with those in the Russian financial community and in the Government of Russia, who attempt to resist Russia becoming "24 hour washing facility" for international organized crime, often with the considerable risk to his own life. You are also aware that he refused to yield to management demands to aid and abet the management and its "sponsors" in the activity aimed at defrauding the controlling shareholders and other conduct, which was in contravention with both - the laws of Russia as well as the US laws. b6 b7C

We are also aware that the management have been harassing [redacted] and our attorneys [redacted] in order to unlawfully obtain confidential documents pertaining to shareholders, which we instructed our attorneys not to release to you and to which you are not entitled. Further, the only purpose for which you may possibly seek the documents which are clearly ours is to identify potential Russia based witnesses in the forthcoming litigation in order to apply unlawful means to prevent them from testifying.

Further, you have attempted, both directly as well as through the law firm of Christy & Veiner to identify the physical location of original stock certificates belonging to our clients as well as other negotiable instruments which belong to us. Knowing the methods utilized by [redacted] cohorts we immediately put Christy & Veiner on notice that they may be inadvertently aiding and abetting in a criminal conspiracy to obtain our property by unlawful b6 b7C

force and/or by means of threats or duress. We further advise you that the documents are in the safe place and neither [redacted] nor [redacted] are aware of their location for the purposes of the personal safety of these lawyers. b6 b7C

Also, on July 7 1994 Christy & Veiner sent a letter to our New York attorneys [redacted] attempting to suggest that the management unilaterally "annulled" the shareholders' equity interest in JSB Inkombank citing a ludicrous "reason" of ostensible non receipt by JSB Inkombank of "the purchase price". After we delivered to Inkombank's office in late August of 1994 our file (well familiar to you file No. IBC83929123/4CM) your [redacted] hastily changed his tune. In the interview which he gave to Commersant Daily (issue dated 9/94 ) [redacted] attempts to "clarify". He admits that Inkombank did in fact receive "the purchase price", however, subsequently "bought back" our shares. You realize, of course how easy it is to show this outrageous lie for what it is. As stated before - the stock certificates are in a very safe place and can be demonstrated to any court in the world. b6 b7C

Based on the above mentioned the demand is hereby made upon you:

1. To immediately provide the shareholders with the documents, which we demanded from you showing Inkombank's investment activity for 1993 and 1994 together with appropriate minutes of the Board authorizing this activity and quarterly financial statements.

2. To pay the dividends in arrears to which the shareholders are entitled.

3. To cease and desist from any attempts to unlawfully obtain the documents and the negotiable instruments belonging to us and the shareholders.

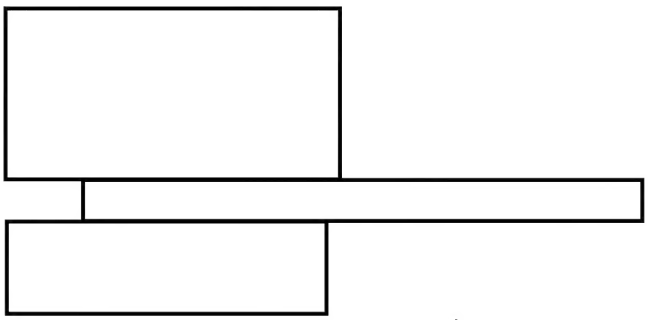
4. To permit [redacted] (who shareholders still consider the attorney for Inkombank) to retain a reputable auditing firm in order to conduct a special audit of Inkombank's financial transactions in the past 18 months.

5. To cease and desist from dissipating Inkombank's assets through the offshore companies, and to return the US$25,000,000 to the accounts in the US banks.

6. To remove [redacted] authority to handle hard currency funds of JSB Inkombank, or to act on behalf of Inkombank with relationship to Inkombank's Western correspondent banks. b6 b7C

If you refuse to comply with these demands we will have no alternative but to instruct our attorneys both in US and in Russia to commence a legal action against you.

[redacted]

cc. 

b6
b7C

# UN: THE FINANCIAL SYSTEM OF RUSSIA HAS FALLEN HOSTAGE TO MAFIA

New Russian Daily,
November 21, 1994

New York, November 20, (ITAR-TASS).

With the beginning of privatization process in Russia "the door was widely open for organized crime", as a result of which country's financial system "has fallen hostage to mafia". Such conclusion is contained in the communication of UN Secretariat being circulated at the commencement of World Conference on organized transnational crime taking place through November 21 - 23, in Naples.

"Just how wide the door was open for organized crime in the 90s by way of privatization demands, competition of investments, markets and currencies, is more clearly seen by the example of Russia. In 1982, there were four banks which were strictly regulated by the Soviet Central Bank. Today, there are at least 2 thousand banks in this country, and up to recent, banking licence was available for purchase for the price of a luxury car. Most, if not all of these banks, as is being reported, are being used as facades for criminal organizations, indicate UN experts.

They direct attention to the fact that Russian criminal groupings "functioning in the name of foreign cyndicates, buy vouchers or directly buy out businesses and thus, implement control over huge number of enterprises".

"Roubles, as well as contraband weapons and precious metals valued in billions of U.S. dollars, are leaving the country by unregulated means every month, at the same time as the flow of "dirty money" is being influxed.

Indicates the communication: "There exist different theories of conspiracy regarding how the rouble is being manipulated for speculative purposes. Yet one can safely state that the monetary system of the country is so imperfect while the amount of illegal money, circulating through the borders, so huge, that the Russian financial system is being kept hostage to mafia.